



State of Wisconsin
2001 - 2002 LEGISLATURE

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2001 SENATE BILL 451

February 20, 2002 – Introduced by Senator JAUCH. Referred to Committee on Health, Utilities, Veterans and Military Affairs.

1 **AN ACT** *to renumber* 196.195 (1) and 196.204 (3); *to renumber and amend*
2 196.204 (1); *to amend* 100.207 (3) (a), 100.207 (5), 100.207 (6) (b) 1., 100.207
3 (6) (c), 100.207 (6) (em) 1., 196.01 (8), 196.196 (1) (c) 1., 196.196 (1) (g) 1. (intro.),
4 196.196 (3) (a) and 196.37 (2); and *to create* 20.155 (1) (Ls), 100.207 (3) (d),
5 100.207 (3m), 100.207 (6) (g), 100.207 (7), 196.025 (6), 196.195 (1g), 196.196 (1)
6 (em), 196.196 (6) (title), 196.196 (6) (a), 196.196 (6) (b), 196.196 (6) (c), 196.196
7 (6) (d), 196.196 (6) (e), 196.196 (6) (f), 196.196 (6) (g), 196.196 (6) (h), 196.1995,
8 196.204 (1r), 196.204 (3) (b), 196.219 (1) (c), 196.219 (3) (p), 196.219 (3m) and
9 227.01 (13) (cm) of the statutes; **relating to:** regulating large price-regulated
10 telecommunications utilities, wholesale telecommunications service, small
11 business telecommunications rates, telecommunications sales practices, and
12 cross subsidization by small telecommunications providers; requiring
13 mandatory credits for certain telecommunications customers; allowing the
14 public service commission to order payments by certain telecommunications

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1 providers; requiring the public service commission to report on
2 telecommunications competition; extending the time limit for emergency rule
3 procedures; providing an exemption from emergency rule procedures;
4 providing an exemption from rule-making procedures; granting rule-making
5 authority; and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill makes certain changes to the regulation of telecommunications providers, including “large price-regulated telecommunications utilities.” The bill defines a “large price-regulated telecommunications utility” as a telecommunications utility that had more than 500,000 access lines in use in this state at the time that the utility elected to become price regulated. Under current law, “price regulation” is a form of regulation that is based on the prices of services offered by a telecommunications utility, instead of the utility’s rate-of-return, which is the traditional basis for regulating public utilities.

The bill does all of the following, which are described below: 1) creates interconnection, collocation, and network elements requirements for large price-regulated telecommunications providers; 2) changes the formula for determining the price increases that a large price-regulated telecommunications utility is allowed to make; 3) allows the public service commission (PSC) to approve price increases by price-regulated telecommunications utilities for small business rates; 4) requires certain telecommunications utilities to issue mandatory credits to customers; 5) requires telecommunications providers to comply with wholesale service standards; 6) allows the PSC to order certain telecommunications providers to make payments to the PSC or other telecommunications providers; 7) regulates certain sales practices by telecommunications providers; 8) creates exceptions on cross subsidization for certain small telecommunications utilities; 9) requires the PSC to report to the legislature on telecommunications competition; and 10) requires the PSC to define “effective competition” for purposes of current law regarding deregulation of telecommunications providers.

Interconnection, collocation, and network elements

The bill creates various requirements for large price-regulated telecommunications utilities regarding interconnection, collocation, and network elements. The bill defines a “network element” as a facility or equipment used to provide telecommunications service. These requirements relate to the duty of a telecommunications utility under federal law to interconnect its facilities and equipment to other telecommunications providers. “Collocation” refers to the placement of a telecommunications provider’s facilities and equipment at the premises of a telecommunications utility for the purpose of interconnection. Collocation may be physical, in which facilities and equipment are actually placed

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at the utility's premises, or collocation may be virtual, which is the functional equivalent of physical collocation, but without the actual placement of facilities and equipment at the utility's premises.

The bill requires a large price-regulated telecommunications utility to provide interconnection, collocation, and network elements in a manner that promotes the maximum development of competitive telecommunications service offerings in this state. Also, a large price-regulated telecommunications utility must provide interconnection, collocation, and network elements in a manner specified by a telecommunications provider if that manner is technically feasible. In addition, the rates at, and terms and conditions on, which a large price-regulated telecommunications utility provides physical or virtual collocation of any type of equipment for interconnection with, or access to the network elements of, the utility or any collocated telecommunications provider at the utility's premises, must be just, reasonable, and nondiscriminatory.

The bill also requires a large price-regulated telecommunications utility to provide, upon request, for cross-connects between the facilities or equipment of collocated telecommunications providers that are the most reasonably direct and efficient, as determined by the collocated telecommunications provider. Also upon request, a large price-regulated telecommunications utility must provide for cross-connects between the facilities or equipment of a collocated telecommunications provider and the network elements platform or transport facilities of a noncollocated telecommunications provider. (A "network elements platform" is the sum of the various constituent network elements of the utility.) A large price-regulated telecommunications utility must provide either type of cross-connect in a manner that is consistent with safety and network reliability standards.

Also, a large price-regulated telecommunications utility must, as requested by a telecommunications provider, provide network elements on a bundled or unbundled basis at rates, and on terms and conditions, that are just, reasonable, and nondiscriminatory. Although not defined in the bill, it is understood in the telecommunications industry that "bundled" network elements are those that are not separated from other network elements, and "unbundled" network elements are those that are separated from other network elements. The network elements must be provided at any point that the telecommunications provider determines is technically feasible and provided in a manner that allows the telecommunications provider to combine the network elements to provide new or existing telecommunications service. Unless directed by a telecommunications provider, a large price-regulated telecommunications utility is not allowed to require a wholesale customer to purchase network elements on an unbundled basis if the utility ordinarily combines the elements to provide service to the utility's own end-user customers. The bill defines "end-user customer" as a person who receives local exchange service, but does not resell the service or use the service to provide telecommunications service to another person. Also, as requested by a telecommunications provider, a large price-regulated telecommunications utility

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must combine any sequence of network elements that the utility ordinarily combines for itself.

In addition, a large price-regulated telecommunications utility may not require that a telecommunications provider purchase other network elements or retail services of the utility if the telecommunications provider uses the network elements platform of the utility that consists solely of combined network elements and the use is for the purpose of providing telecommunications service to an end-user customer. Other requirements apply to the use of a network elements platform, including the requirement that a large price-regulated telecommunications utility must provide the platform without any disruption of services to end-user customers.

Finally, the bill requires the PSC to issue an order establishing a compliance plan for each large price-regulated telecommunications utility that includes standards for the utility to provide nondiscriminatory access to the utility's services and network elements to the utility's wholesale customers. The plan must also include procedures for measuring the utility's compliance with the standards and requirements for the utility to make specified monetary payments to a wholesale customer if the utility fails to comply with a standard. The PSC must issue the order no later than nine months after the effective date of the bill.

Price increase formula

Under current law, a price-regulated telecommunications utility may increase its service rates according to a formula that is based on annual changes in the gross domestic product price index (GDPPI). Under the formula, the change in the revenue weighted price indexes for all services that are subject to price regulation may not exceed the difference between the most recent annual change in GDPPI and an offset percentage. In addition, the offset percentage is subject to the following: 1) a penalty adjustment that increases the offset percentage for inadequate service or insufficient investment by a telecommunications utility; and 2) an incentive adjustment that decreases the offset percentage for encouraging infrastructure investment by a telecommunications utility.

The amount of the offset percentage and the penalty and incentive adjustments depend on the size of a telecommunications utility. For a large price-regulated telecommunications utility, the offset percentage is 3%, which is subject to a penalty adjustment that may not exceed 2% and an incentive adjustment that may not exceed 2%. The PSC is required to promulgate rules that establish the penalty and incentive adjustments.

This bill changes the penalty adjustment to the offset percentage for large price-regulated telecommunications utilities. Under the bill, the penalty adjustment may not exceed 10%.

Small business rates

Under current law, as noted above, a price-regulated telecommunications utility is subject to certain restrictions regarding rate increases. This bill creates an exception to these restrictions for "small business rates," which the bill defines as rates for standard business access lines and usage by small businesses with no more than three access lines.

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Under the bill, the PSC must investigate whether to allow price-regulated telecommunications utilities, including large price-regulated telecommunications utilities, to increase small business rates in geographic areas specified by the PSC. The PSC must complete the investigation no later the first day of the 13th month beginning after the bill's effective date. The PSC may allow such increases only if, as a result of the investigation, the PSC determines that effective competition exists in a geographic area. The PSC must promulgate rules defining "effective competition." If the PSC allows such rate increases, a price-regulated telecommunications utility may petition the PSC to increase rates. The PSC must grant the petition if it includes a statement that the price-regulated telecommunications utility agrees to allow customers to terminate contracts, as described below. However, the PSC may not grant a petition until after the PSC's order regarding wholesale service standards (which is described below) goes into effect.

If the PSC grants a petition by a price-regulated telecommunications utility, the bill allows a customer who has a contract for small business rates with the utility to terminate the contract without penalty. However, a customer may terminate such a contract only if the customer enters into a new contract for small business rates with another telecommunications provider. In addition, the right to terminate under the bill expires one year after the effective date of the PSC's order granting the price-regulated telecommunications utility's petition.

Mandatory credits

The bill requires a large price-regulated telecommunications utility to issue credits to end-user customers if the utility fails to satisfy requirements regarding each of the following: 1) disruption of service; 2) failure to install local exchange service; and 3) failure to keep service or repair appointments. The amount of a credit depends on the type of requirement and whether a residential or business telephone line is affected. The bill also allows the PSC, upon complaint or its own motion, to issue an order requiring telecommunications utilities, in addition to large price-regulated telecommunications utilities, to issue credits for failing to satisfy the above requirements. The PSC may issue such an order if it is necessary to protect the public interest.

The above requirements regarding the credits do not apply after the first day of the 60th month after the bill's effective date, unless the PSC, after notice and hearing, issues an order providing the requirements apply after that date. The PSC may issue such an order if it is necessary to protect the public interest.

Wholesale service standards

Under current law, telecommunications providers are subject to certain prohibitions regarding their treatment of consumers and other telecommunications providers. This bill creates an additional prohibition on failing to provide wholesale services to another telecommunications provider on the same terms and conditions that the telecommunications provider provides to itself or to any of its affiliates. "Wholesale services" are defined in the bill to include preordering, ordering and provisioning, maintenance and repair, network and system performance, unbundled elements, operator services and directory assistance, service center availability, and

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billing. In addition, the bill allows the PSC to issue an order that specifies additional services that are wholesale services.

The bill also requires the PSC to issue an order that establishes nondiscriminatory standards that require a telecommunications provider to provision wholesale services and related facilities, and repair wholesale service outages, in a timely manner. The order must also require a telecommunications provider to minimize the number of reports to the provider regarding problems with its wholesale service. In addition, the order may require a telecommunications provider that fails to comply with the standards to make payments to another telecommunications provider who is affected by the failure, or to the PSC, in amounts and according to schedules specified in the order. The PSC may use any payment that it receives for any purpose determined by the PSC relating to maintaining or improving telecommunications service quality, including compensating persons who are affected by the failure to comply with the PSC's order. The PSC must issue the order no later than the first day of the fourth month beginning after the bill's effective date.

In addition, the bill allows the PSC to issue an order that exempts a telecommunications provider from the order described above or that imposes less stringent requirements. The PSC may issue such an order only upon finding that such an order is in the public interest and that the telecommunications provider that is the subject of the order has not violated any of the following: 1) the order described above; 2) the prohibitions under current law regarding treatment of consumers and other telecommunications providers; 3) any provision of the federal Telecommunications Act of 1996, or an order or regulation issued under that act, relating to wholesale service; or 4) interconnection agreement approved by the PSC.

PSC authority regarding payments by telecommunications providers

Under current law, the PSC may order a person subject to its authority to take appropriate action if the PSC determines that the person acted in a manner that is unjust, unreasonable, insufficient, preferential, unjustly discriminatory, or otherwise unreasonable or unlawful. The PSC may also issue such an order if the PSC finds that service is inadequate or cannot reasonably be obtained.

Under this bill, if the PSC issues an order described above against a telecommunications provider, the PSC may also require the telecommunications provider to make payments specified in the order to persons affected by the telecommunications provider's act or service or to the PSC. The PSC may use any payment that it receives for any purpose determined by the PSC relating to maintaining or improving telecommunications service quality, including compensating persons who are affected by the telecommunications provider's act or service.

Sales practices of telecommunications providers

Current state law prohibits persons who provide telecommunications services from engaging in certain sales practices such as charging a customer for telecommunications services provided after the customer has cancelled those services. The law also prohibits a person who provides telecommunications services from engaging in advertising practices concerning those services that are false,

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misleading, or deceptive. In addition, the law requires that if a person orders telecommunications services as the result of an oral solicitation, the provider of the telecommunications services must provide independent confirmation of the order.

This bill provides that a person may request a telecommunications service orally, in writing, or by electronic means but specifies that a telecommunications provider may not provide services to a person who orders the service by any electronic means that simultaneously activates the service.

The bill also imposes additional requirements on persons who provide telecommunications services. The bill prohibits a person from enrolling a customer in any telecommunications service in which the customer did not affirmatively request to be enrolled. The bill specifies that a request to be enrolled in a particular telecommunications service is an affirmative request to be enrolled only in that particular service. The bill also prohibits the practice known as "slamming." A person engages in slamming by making a change in a customer's selection of a provider of telecommunications services even though the customer did not affirmatively request that such a change be made.

In addition to the slamming prohibitions created under this bill, federal law also prohibits slamming. This prohibition against slamming under federal law is regulated by the federal communications commission (FCC). Under rules promulgated by the FCC, any state may notify the FCC that it intends to administer the FCC rules prohibiting slamming including the remedies and penalties specified under those rules. This bill directs the department of agriculture, trade and consumer protection (DATCP) to notify the FCC of its intention to administer the FCC rules. It also requires DATCP to promulgate rules that are consistent with the FCC regulations rules.

Cross subsidization

Current law prohibits a telecommunications utility from subsidizing the activities of affiliates that are not subject to the PSC's authority. This prohibition is referred to as the prohibition on "cross subsidization." The prohibition does not apply to the retained earnings of a telecommunications utility.

This bill creates two exceptions to the prohibition on cross subsidization for small telecommunications utilities. The bill defines "small telecommunications utility" as a telecommunications utility that has less than 50,000 access lines in use in the state. For a telecommunications utility that is in a holding company, the access lines of all other telecommunications utilities in the holding company are counted in determining whether the telecommunications utility is a small telecommunications utility. (The access lines of any wireless telecommunications provider in the holding company are not counted.)

The first exception to the prohibition is that a small telecommunications utility is allowed to guarantee a loan for an affiliate if the loan is made before the first day of the 60th month beginning after the bill's effective date. Also, the purpose of the loan must be to partially or completely fund the cost of equipment that the affiliate will use to provide telecommunications service, cable television service, or both. The second exception to the prohibition is that a small telecommunications utility may allow an affiliate free use of the utility's intangible assets, including its name,

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goodwill, patents, and trademarks. However, the affiliate must use the intangible asset to provide telecommunications service, cable television service, or both. In addition, neither of the bill's two exceptions applies unless the small telecommunications utility waives its right under current law to object to the PSC allowing a competitor to provide telecommunications service in the municipality served by the utility.

A small telecommunications utility that takes advantage of either of the bill's exceptions is subject to additional requirements if certain actions occur under the federal Telecommunications Act of 1996. The federal act allows certain rural telecommunications utilities to petition the PSC to suspend or modify the application of the act's interconnection requirements. Also, certain rural telecommunications utilities are exempt from the interconnection requirements until another telecommunications provider requests interconnection and the PSC determines to terminate the exemption.

Under this bill, if a small telecommunications utility guarantees a loan for an affiliate under the bill's first exception and the utility petitions the PSC to suspend or modify the federal act's interconnection requirements, the affiliate must annually pay the utility an amount equal to one-quarter of 1% of the outstanding balance of the loan. The affiliate must also make such payments if another telecommunications provider requests interconnection and the PSC determines not to terminate the small telecommunications utility's exemption under the federal act. In addition, if a small telecommunications utility allows an affiliate free use of an intangible asset under the bill's second exception and the utility petitions the PSC to suspend or modify the federal act's interconnection requirements, the affiliate must annually pay the utility an amount equal to one-quarter of 1% of the affiliate's gross sales. The affiliate must also make such payments if another telecommunications provider requests interconnection and the PSC determines not to terminate the small telecommunications utility's exemption under the federal act.

Current law also requires the PSC to establish the minimum accounting and reporting requirements that are necessary for the PSC to, among other things, enforce the prohibition on cross subsidization. Under this bill, the accounting and reporting requirements that apply to transactions between small telecommunications utilities and their affiliates must conform with certain federal accounting and reporting requirements. The PSC must promulgate rules regarding such requirements.

PSC report on telecommunications competition

The bill requires the PSC to investigate competition among intrastate telecommunications providers, including those that provide Internet access service, during the five-year period after the bill's effective date and to submit a report to the legislature that assesses the relationship between the regulatory and competitive status of such providers. The report must assess specified aspects of such competition, including: 1) the number of different providers in different product and geographic markets; 2) the prices of telecommunications services offered by the providers; 3) the provider's market power; 4) the different levels of regulation applicable to the providers; 5) the different retail service quality credit plans offered

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by the providers; 6) the barriers to effective competition; 7) the number and types of complaints by residential customers regarding the providers; and 8) certain information regarding the unbundled network elements, interconnection, and collocation offered by the providers.

The report must also include proposals for legislation recommended by the PSC, including recommendations for remedying anticompetitive behavior of intrastate telecommunications providers. If the proposals do not include requiring providers to structurally separate wholesale and retail operations into independently operated affiliates, the report must indicate the PSC's reasons for not making such a recommendation.

Definition of "effective competition"

Under current law, the PSC is allowed to suspend certain requirements regarding telecommunications providers in order to establish a degree of regulation that is less than the degree under current law. The PSC may suspend the requirements if, after a hearing, the PSC makes certain determinations, including determining that effective competition exists in a market for telecommunications services and that the competition justifies a lesser degree of regulation. Current law does not define "effective competition." This bill requires the PSC to promulgate rules that provide such a definition.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.155 (1) (Ls) of the statutes is created to read:

2 20.155 (1) (Ls) *Telecommunications provider payments.* All moneys received
3 from payments by telecommunications providers under ss. 196.219 (3m) (c) and
4 196.37 (2) for purposes determined by the commission under ss. 196.219 (3m) (c) and
5 196.37 (2).

6 **SECTION 2.** 100.207 (3) (a) of the statutes is amended to read:

7 100.207 (3) (a) A person may not engage in negative option billing or negative
8 enrollment of telecommunications services, including unbundled
9 telecommunications services. A person may not bill a customer for, or enroll a
10 customer in, any telecommunications service that the customer did not affirmatively

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1 order unless that service is required to be provided by law, the federal
2 communications commission, or the public service commission. A customer's failure
3 to refuse a person's proposal to provide a telecommunications service is not an
4 affirmative request for that telecommunications service. A customer's request to be
5 enrolled in a particular telecommunications service is an affirmative request to be
6 enrolled only in that particular telecommunications service.

7 **SECTION 3.** 100.207 (3) (d) of the statutes is created to read:

8 100.207 (3) (d) A person may not make a change in a customer's selection of a
9 telecommunications service provider unless the customer affirmatively requests
10 that the person take such action.

11 **SECTION 4.** 100.207 (3m) of the statutes is created to read:

12 100.207 (3m) REQUESTS FOR SERVICE. (a) A customer may affirmatively request
13 a telecommunications service orally, in writing, or by electronic means.

14 (b) Notwithstanding par. (a), a person may not provide a telecommunications
15 service to a customer who orders the service by an electronic means that
16 simultaneously activates that service.

17 **SECTION 5.** 100.207 (5) of the statutes is amended to read:

18 100.207 (5) TERRITORIAL APPLICATION. ~~Subsections (2) to (4) apply~~ This
19 subsection applies to any practice directed to any person in this state.

20 **SECTION 6.** 100.207 (6) (b) 1. of the statutes is amended to read:

21 100.207 (6) (b) 1. The department of justice, after consulting with the
22 department of agriculture, trade and consumer protection, or any district attorney
23 upon informing the department of agriculture, trade and consumer protection, may
24 commence an action in circuit court in the name of the state to restrain by temporary
25 or permanent injunction any violation of this section. Injunctive relief may include

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1 an order directing telecommunications providers, as defined in s. 196.01 (8p), to
2 discontinue telecommunications service provided to a person violating this section
3 or ch. 196. Temporary injunctive relief may include an order requiring that a person
4 who provides telecommunications services deposit in an escrow account any
5 payments that the provider has received or is expected to receive from customers as
6 a result of practices that may violate this section or ch. 196. Before entry of final
7 judgment, the court may make such orders or judgments as may be necessary to
8 restore to any person any pecuniary loss suffered because of the acts or practices
9 involved in the action if proof of these acts or practices is submitted to the satisfaction
10 of the court.

11 **SECTION 7.** 100.207 (6) (c) of the statutes is amended to read:

12 100.207 (6) (c) Any person who violates subs. ~~(2) to (4)~~ this section shall be
13 required to forfeit not less than \$25 nor more than ~~\$5,000~~ \$10,000 for each offense.
14 Each day of violation constitutes a separate offense. Forfeitures under this
15 paragraph shall be enforced by the department of justice, after consulting with the
16 department of agriculture, trade and consumer protection, or, upon informing the
17 department, by the district attorney of the county where the violation occurs.

18 **SECTION 8.** 100.207 (6) (em) 1. of the statutes is amended to read:

19 100.207 (6) (em) 1. Before preparing any proposed rule under ~~this section~~ par.
20 (e), the department shall form an advisory group to suggest recommendations
21 regarding the content and scope of the proposed rule. The advisory group shall
22 consist of one or more persons who may be affected by the proposed rule, a
23 representative from the department of justice, and a representative from the public
24 service commission.

25 **SECTION 9.** 100.207 (6) (g) of the statutes is created to read:

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1 100.207 (6) (g) Nothing in this subsection precludes the department from
2 seeking a remedy or penalty in accordance with the rules promulgated under sub.
3 (7). Practices in violation of sub. (3) may also constitute a violation of the rules
4 promulgated under sub. (7).

5 **SECTION 10.** 100.207 (7) of the statutes is created to read:

6 100.207 (7) ADMINISTRATION OF FEDERAL COMMUNICATIONS COMMISSION RULES.
7 The department shall administer and enforce the federal communications
8 commission's unauthorized carrier change rules and remedies under 47 CFR 64.1110
9 to 64.1190 and shall notify the federal communications commission, in accordance
10 with 47 CFR 64.1110 (a), of its intention to administer and enforce those rules and
11 remedies. In addition to the rules promulgated under sub. (6) (e), the department
12 shall promulgate rules that are consistent with the commission's unauthorized
13 carrier change rules and remedies under 47 CFR 64.1110 to 64.1190.

14 **SECTION 11.** 196.01 (8) of the statutes is amended to read:

15 196.01 (8) "Small telecommunications utility" means, except as provided in s.
16 196.204 (1r) (a) 5. and (3) (b), any telecommunications utility or a successor in
17 interest of a telecommunications utility that provided landline local and access
18 telecommunications service as of January 1, 1984, and that has less than 50,000
19 access lines in use in this state.

20 **SECTION 12.** 196.025 (6) of the statutes is created to read:

21 196.025 (6) (a) In this subsection, "intrastate telecommunications service
22 provider" means any telecommunications provider that provides intrastate
23 telecommunications service or Internet access service.

24 (b) The commission shall investigate competition among intrastate
25 telecommunications service providers during the 5-year period after the effective

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1 date of this paragraph [revisor inserts date], and submit a report to the
2 appropriate standing committees of the legislature under s. 13.172 (3) that assesses
3 the relationship between the regulatory and competitive status of all intrastate
4 telecommunications providers, including an assessment of all of the following:

5 1. The status of competition among intrastate telecommunications service
6 providers, including all of the following:

7 a. The number of different intrastate telecommunications providers in
8 different product and geographic markets in this state as compared to national data.

9 b. The prices of all telecommunications services offered by the different
10 intrastate telecommunications service providers in this state as compared to
11 national averages.

12 c. The market power of the different intrastate telecommunications providers
13 in this state as compared to national data.

14 2. The differences in the level of regulation applicable to the different intrastate
15 telecommunications service providers in this state.

16 3. A comparison of the retail service quality credit plans offered by the different
17 intrastate telecommunications service providers in this state and a comparison
18 between such plans that are offered in this state and elsewhere in the nation.

19 4. The barriers to effective competition, as defined in rules promulgated by the
20 commission, in markets for telecommunications services offered by intrastate
21 telecommunications providers, including the barriers to entry into different product
22 and geographic markets, and including of whether the barriers are unreasonable
23 and whether any barrier results from anticompetitive behavior of any intrastate
24 telecommunications provider.

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1 5. The total number of different types of complaints by residential customers
2 to the commission or the department of agriculture, trade and consumer protection
3 regarding each intrastate telecommunications provider.

4 6. For each intrastate telecommunications provider, of the total number of
5 different types of complaints under subd. 1., the number of different types of
6 complaints that are due to circumstances that are the fault of the intrastate
7 telecommunications provider.

8 7. The availability, price, and quality of unbundled network elements,
9 interconnection, and collocation provided by the different intrastate
10 telecommunications providers.

11 8. The effectiveness of the compliance plans established in the order under s.
12 196.1995 (5) (a).

13 9. Any other factor that the commission determines is relevant to competition
14 among intrastate telecommunications providers.

15 (c) The report under par. (b) shall include any proposals for legislation
16 recommended by the commission, including any proposals for remedying
17 anti-competitive behavior of intrastate telecommunications providers. If the
18 proposals do not include recommendations for requiring intrastate
19 telecommunications providers to structurally separate wholesale and retail
20 operations into separate, independently operated affiliates, the report shall indicate
21 the commission's reasons for not making such a recommendation.

22 **SECTION 13.** 196.195 (1) of the statutes is renumbered 196.195 (1r).

23 **SECTION 14.** 196.195 (1g) of the statutes is created to read:

24 196.195 (1g) **DEFINITION.** In this section, "effective competition" has the
25 meaning given in rules promulgated by the commission.

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1 **SECTION 15.** 196.196 (1) (c) 1. of the statutes is amended to read:

2 196.196 (1) (c) 1. A price-regulated telecommunications utility may not

3 increase its rates for services under par. (a), except for basic message

4 telecommunications service, for a period of 3 years after electing to become price

5 regulated. Following the initial 3-year period for services under par. (a), except for

6 basic message telecommunications service, and at any time for basic message

7 telecommunications service, a price-regulated telecommunications utility may

8 increase its rates for those services to the extent that the change in the revenue

9 weighted price indices does not exceed 2 percentage points less than the most recent

10 annual change in the gross domestic product price index, as published by the federal

11 government. The commission shall, by rule, create a penalty mechanism for up to

12 a one percentage point increase in the percentage offset for inadequate service

13 provided by or insufficient investment made by a price-regulated

14 telecommunications utility. The commission shall, by rule, create an incentive

15 mechanism for up to a one percentage point decrease in the percentage offset to

16 encourage infrastructure investment by the price-regulated telecommunications

17 utility. For a telecommunications utility with more than 500,000 access lines in use

18 in this state at the time of electing to become price regulated, the percentage offset

19 to the change in the gross domestic product price index shall be 3 percentage points

20 and, the penalty mechanism shall be up to a 10 percentage point increase, and the

21 incentive mechanism shall be up to a 2 percentage points point decrease. No earlier

22 than 6 years after September 1, 1994, and no more frequently than every 3 years

23 thereafter, the commission may, following notice and an opportunity for hearing, by

24 rule increase or decrease the gross domestic product price index percentage offset by

25 a maximum of one percentage point in any 12-month period to reflect any statewide

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1 changes in the productivity experience of the telecommunications industry. The
2 commission shall promulgate rules to identify the factors that the commission may
3 consider in determining changes in the productivity experience of the
4 telecommunications industry. If application of the price regulation index formula
5 achieves a negative result, prices shall be reduced so that the cumulative price
6 change for services under par. (a), including prior price reductions in these services,
7 achieves the negative result.

8 **SECTION 16.** 196.196 (1) (em) of the statutes is created to read:

9 196.196 (1) (em) 1. In this paragraph, "small business rates" means rates for
10 standard business access lines and usage by small businesses with no more than 3
11 access lines.

12 2. Notwithstanding pars. (c), (d), and (e), the commission shall investigate
13 whether to allow price-regulated telecommunications utilities to increase small
14 business rates in geographic areas specified by the commission. The commission
15 shall complete the investigation no later than the first day of the 13th month
16 beginning after the effective date of this subdivision [revisor inserts date]. The
17 commission may allow such an increase in a geographic area only if, as a result of the
18 investigation, the commission determines that effective competition, as defined in
19 rules promulgated by the commission, exists in the geographic area. If the
20 commission makes such a determination, a price-regulated telecommunications
21 utility may petition the commission to increase small business rates in the
22 geographic area. If a price-regulated telecommunications utility includes with a
23 petition a statement that, if the petition is granted, the utility agrees to allow
24 customers with whom the utility has contracts for small business rates to terminate
25 the contracts as provided in subd. 3., the commission shall grant the petition, except

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1 that the commission may not grant a petition until after the commission's order
2 under s. 196.219 (3m) (b) goes into effect.

3 3. Notwithstanding any provision in a tariff filed under s. 196.194 (1), if the
4 commission grants a petition filed by a price-regulated telecommunications utility
5 under subd. 2., a customer of the utility may, no later than one year after the effective
6 date of the commission's order granting the petition, terminate, without penalty, a
7 contract with the utility for small business rates before the expiration of the contract
8 if the customer terminates the contract for the purpose of entering into a new
9 contract for small business rates with another telecommunications provider.
10 Termination of a contract under this subdivision is effective when the
11 price-regulated telecommunications utility receives oral or written notice from a
12 customer.

13 4. If the commission grants a petition filed by a price-regulated
14 telecommunications utility under subd. 2., the utility shall give notice to its
15 customers that are subject to small business rates that describes the small business
16 rate increase approved by the commission and the right of customers to terminate
17 contracts under subd. 3. The notice shall be published in a newspaper of general
18 circulation in the affected geographic area within a reasonable time period after the
19 commission grants the petition, and shall be included in or on the bill of each
20 customer that is subject to small business rates in the billing first following the
21 commission's granting of the petition.

22 **SECTION 17.** 196.196 (1) (g) 1. (intro.) of the statutes is amended to read:

23 196.196 (1) (g) 1. (intro.) Five years after a telecommunications utility elects
24 to become a price-regulated telecommunications utility or, if subd. 4. applies, within
25 the dates specified in that subdivision, the commission shall hold a hearing, and at

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1 any time thereafter, upon complaint or on the commission's own motion, the
2 commission may hold a hearing, to determine whether it is in the public interest to
3 suspend one or more of the provisions of this subsection, except par. (em), as it applies
4 to a price-regulated telecommunications utility or to approve an alternative
5 regulatory method for that utility. In making a determination under this
6 subdivision, the commission shall identify all of the following:

7 **SECTION 18.** 196.196 (3) (a) of the statutes is amended to read:

8 196.196 (3) (a) Except to the extent expressly permitted by this section and ss.
9 196.19 (1m), 196.194, 196.195, 196.1995, 196.20 (1m), 196.204, 196.209, and
10 196.219, the commission may not have jurisdiction over the prices or terms and
11 conditions for the offering of any other services, including new telecommunications
12 services, offered by a price-regulated telecommunications utility.

13 **SECTION 19.** 196.196 (6) (title) of the statutes is created to read:

14 196.196 (6) (title) MANDATORY CREDITS.

15 **SECTION 20.** 196.196 (6) (a) of the statutes is created to read:

16 196.196 (6) (a) *Definitions.* In this subsection:

17 1. "Customer" means any person, including a telecommunications provider,
18 that uses the services, products, or facilities provided by a telecommunications
19 utility.

20 2. "End-user customer" means a person that receives local exchange service
21 from a telecommunications utility or another telecommunications provider, and that
22 does not resell the local exchange service or use such service to provide
23 telecommunications service to any other customer.

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1 3. “Large price-regulated telecommunications utility” means a
2 price-regulated telecommunications utility that has more than 500,000 access lines
3 in use in this state at the time of electing to become price regulated.

4 4. “Local exchange service” has the meaning given in s. 196.50 (1) (b) 1.

5 5. “Telecommunications utility” means a large price-regulated
6 telecommunications utility or a telecommunications utility specified by the
7 commission in an order under par. (f).

8 **SECTION 21.** 196.196 (6) (b) of the statutes is created to read:

9 196.196 (6) (b) *Service disruptions.* 1. If the local exchange service of an
10 end-user customer is disrupted by a telecommunications utility and remains
11 disrupted for more than 24 hours after the disruption is reported to the
12 telecommunications utility, the utility shall issue a credit in an amount specified in
13 subd. 2. to the end-user customer unless one of the following applies:

14 a. The disruption is caused by the end-user customer or the end-user
15 customer’s telecommunications equipment.

16 b. The disruption is caused by a natural disaster, act of God, military action,
17 war, insurrection, or riot.

18 c. The end-user customer fails to keep an appointment to repair the disruption
19 and the utility is not able to obtain access to repair the disruption.

20 2. If service is disrupted for 24 hours or more, the amount of the credit under
21 subd. 1. shall be \$35 for each primary residential line, \$5 for each other residential
22 line, \$135 for each main billing business line, and \$25 for each other business line,
23 for each 24-hour period, or portion of a 24-hour period, in which service is disrupted.

24 **SECTION 22.** 196.196 (6) (c) of the statutes is created to read:

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1 196.196 (6) (c) *Failure to install local exchange service.* 1. Except as provided
2 in subd. 2., if a telecommunications utility fails to install local exchange service or
3 related equipment within 5 business days after an end-user customer places an
4 order for the service or equipment, the telecommunications utility shall issue a credit
5 to the end-user customer in an amount equal to \$35 for each residential line and
6 \$135 for each business line for each business day, or portion of a business day, beyond
7 the 5th business day that the service or equipment is not installed.

8 2. Subdivision 1. does not apply to any of the following:

9 a. The installation of service in an undeveloped area where there are no
10 telecommunications facilities.

11 b. A failure to install that is caused by a natural disaster, act of God, military
12 action, war, insurrection, or riot.

13 c. A failure to install resulting from the end-user customer voluntarily
14 changing the installation date without providing notice 48 hours before the
15 originally scheduled installation date.

16 **SECTION 23.** 196.196 (6) (d) of the statutes is created to read:

17 196.196 (6) (d) *Failure to keep appointments.* 1. A telecommunications utility
18 shall do all of the following:

19 a. Except as provided in subd. 2., if the utility fails to keep an appointment to
20 install service or make on-premises or outside repairs for an end-user customer,
21 issue a \$35 credit for each residential line and a \$135 credit for each business line
22 that is affected by the failure.

23 b. Inform an end-user customer about the utility's obligation to issue a credit
24 under subd. 1. a. at the time an appointment is made.

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1 2. Subdivision 1. a. does not apply if the telecommunications utility provides
2 the end-user customer with 24-hour advance notice that the utility is not able to
3 keep the appointment or if a natural disaster, act of God, military action, war,
4 insurrection, or riot prevents the utility from keeping the appointment.

5 **SECTION 24.** 196.196 (6) (e) of the statutes is created to read:

6 196.196 (6) (e) *Credit procedure.* 1. If a telecommunications utility is required
7 to provide a credit to an end-user customer under this subsection, the
8 telecommunications utility shall issue the credit by adjusting the end-user
9 customer's first bill following the event for which the credit is required.

10 2. Except for an end-user customer report under par. (b) 1., a
11 telecommunications utility may not require an end-user customer to provide any
12 notice as a condition for issuing a credit required under this subsection.

13 **SECTION 25.** 196.196 (6) (f) of the statutes is created to read:

14 196.196 (6) (f) *Applicability.* If necessary to protect the public interest, the
15 commission may, upon complaint or its own motion, issue an order specifying
16 telecommunications utilities in addition to large price-regulated
17 telecommunications utilities that are subject to the requirements of this subsection.

18 **SECTION 26.** 196.196 (6) (g) of the statutes is created to read:

19 196.196 (6) (g) *Other remedies available.* The remedies under this subsection
20 are not exclusive.

21 **SECTION 27.** 196.196 (6) (h) of the statutes is created to read:

22 196.196 (6) (h) *Sunset.* 1. Except as provided in subd. 2., this subsection does
23 not apply after the first day of the 60th month beginning after the effective date of
24 this subdivision [revisor inserts date].

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1 2. If necessary to protect the public interest, the commission may, after notice
2 and hearing, issue an order providing that this subsection applies after the date
3 specified in subd. 1.

4 **SECTION 28.** 196.1995 of the statutes is created to read:

5 **196.1995 Interconnection, collocation, and network elements. (1)**

6 DEFINITIONS. In this section:

7 (a) "End-user customer" has the meaning given in s. 196.196 (6) (a) 2.

8 (b) "Large price-regulated telecommunications utility" means a
9 price-regulated telecommunications utility that has more than 500,000 access lines
10 in use in this state at the time of electing to become price regulated.

11 (c) "Local exchange service" has the meaning given in s. 196.50 (1) (b) 1.

12 (d) "Network element" means a facility or equipment used to provide
13 telecommunications service. "Network element" includes features, functions, and
14 capabilities that are provided by means of such a facility or equipment, including
15 subscriber numbers, databases, signaling systems, and information sufficient for
16 bills or collections or that are used in transmitting, routing, or otherwise providing
17 telecommunications service.

18 (e) "Wholesale customer" means a telecommunications provider that uses the
19 services, products, or facilities of a large price-regulated telecommunications utility
20 to provide telecommunications service to an end-user customer.

21 **(2) GENERALLY.** (a) A large price-regulated telecommunications utility shall
22 provide interconnection, collocation, and network elements to telecommunications
23 providers in a manner that promotes the maximum development of competitive
24 telecommunications service offerings in this state.

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1 (b) A large price-regulated telecommunications utility shall provide
2 interconnection, collocation, and network elements in a manner specified by a
3 telecommunications provider if that manner is technically feasible. A manner is
4 presumed to be technically feasible if the large price-regulated telecommunications
5 utility or any of its affiliates offer or provide interconnection, collocation, and
6 network elements in that manner in any jurisdiction.

7 **(3) COLLOCATION.** (a) A large price-regulated telecommunications utility shall
8 provide physical or virtual collocation of any type of equipment for interconnection
9 with, or access to the network elements of, the utility or any collocated
10 telecommunications provider at the utility's premises, at rates and on terms and
11 conditions that are just, reasonable, and nondiscriminatory. In this paragraph,
12 "equipment" includes optical transmission equipment, multiplexers, remote
13 switching modules, and cross-connects between the facilities or equipment of other
14 collocated telecommunications providers. In this paragraph, "equipment" also
15 includes microwave transmission facilities on the exterior or interior of any premises
16 owned or controlled by a large price-regulated telecommunications utility, unless
17 the large price-regulated telecommunications utility demonstrates to the
18 satisfaction of the commission that physical or virtual collocation of such facilities
19 is not feasible due to technical issues or space limitations.

20 (b) Upon request, a large price-regulated telecommunications utility shall
21 provide for each of the following in a manner that is consistent with safety and
22 network reliability standards:

23 1. Cross-connects between the facilities or equipment of collocated
24 telecommunications providers that are the most reasonably direct and efficient, as
25 determined by the collocated telecommunications provider.

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1 2. Cross-connects between the facilities or equipment of a collocated
2 telecommunications provider and the network elements platform or transport
3 facilities of a noncollocated telecommunications provider.

4 **(4) NETWORK ELEMENTS.** (a) Upon the request of a telecommunications provider,
5 a large price-regulated telecommunications utility shall provide network elements
6 on a bundled or unbundled basis, as requested by the telecommunications provider,
7 at any point that the telecommunications provider determines is technically feasible,
8 and in a manner that allows the telecommunications provider to combine the
9 network elements to provide new or existing telecommunications service. A large
10 price-regulated telecommunications utility must provide network elements under
11 this paragraph at rates, and on terms and conditions, that are just, reasonable, and
12 nondiscriminatory.

13 (b) A large price-regulated telecommunications utility may not require a
14 wholesale customer to purchase network elements on an unbundled basis if the
15 utility ordinarily combines the elements to provide service to the utility's own
16 end-user customers, except at the direction of a telecommunications provider that
17 requests unbundled network elements.

18 (c) At the direction of a telecommunications provider that requests network
19 elements, a large price-regulated telecommunications utility shall provide network
20 elements on a bundled or unbundled basis, and shall combine any sequence of
21 network elements requested by the telecommunications provider that the utility
22 ordinarily combines for itself.

23 (d) If a telecommunications provider uses the network elements platform of a
24 large price-regulated telecommunications utility that consists solely of combined
25 network elements and the use is for the purpose of providing telecommunications

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1 service to an end-user customer, the large price-regulated telecommunications
2 utility may not require that the telecommunications provider purchase other
3 network elements or retail services of the utility. A telecommunications provider
4 may order the network elements platform on an as-is basis for an end-user customer
5 that has received local exchange service from the large price-regulated
6 telecommunications utility and the telecommunications provider may direct the
7 utility not to change any of the features previously selected by the end-user
8 customer. A large price-regulated telecommunications utility that provides a
9 network elements platform to a telecommunications provider shall provide the
10 platform without any disruption of services to end-user customers.

11 **(5) COMPLIANCE PLAN.** (a) No later than the first day of the 9th month beginning
12 after the effective date of this paragraph [revisor inserts date], the commission
13 shall, after notice and, if requested, a hearing, issue an order establishing a
14 compliance plan for each large price-regulated telecommunications utility that
15 includes each of the following:

16 1. Standards for the utility to provide nondiscriminatory access to the utility's
17 services and network elements, including the utility's operational support system,
18 to the utility's wholesale customers. The access must be at least equal in quality to
19 the access provided by the utility to itself or to any subsidiary, affiliate, or other
20 person to which the utility provides interconnection.

21 2. Procedures for measuring the large price-regulated telecommunications
22 utility's compliance with the standards under subd. 1.

23 3. Requirements for the utility to make specified monetary payments to a
24 wholesale customer if the utility fails to comply with the standards under subd. 1.

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1 (b) The requirements of this subsection apply in addition to any requirements
2 under an interconnection agreement.

3 **SECTION 29.** 196.204 (1) of the statutes is renumbered 196.204 (1g) and
4 amended to read:

5 196.204 (1g) Except for retained earnings and except as provided in sub. (1r),
6 a telecommunications utility may not subsidize, directly or indirectly, any activity,
7 including any activity of an affiliate, which is not subject to this chapter or is subject
8 to this chapter under s. 196.194, 196.195, 196.202, or 196.203. No
9 telecommunications utility may allocate any costs or expenses in a manner ~~which~~
10 that would subsidize any activity ~~which that~~ is not subject to this chapter or is subject
11 to this chapter under s. 196.194, 196.195, 196.202, or 196.203. Except as provided
12 in subs. (2) and (4) the commission may not allocate any revenue or expense so that
13 a portion of a telecommunications utility's business ~~which that~~ is fully regulated
14 under this chapter is subsidized by any activity ~~which that~~ is not regulated under
15 this chapter or is partially deregulated under s. 196.194, 196.195, 196.202, or
16 196.203.

17 **SECTION 30.** 196.204 (1r) of the statutes is created to read:

18 196.204 (1r) (a) In this subsection:

19 1. "Affiliated interest" has the meaning given in s. 196.52 (1).

20 2. "Holding company" means a person that, in any chain of successive
21 ownership, directly or indirectly as a beneficial owner, owns, controls, or holds 50%
22 or more of the outstanding voting securities of a telecommunications utility.

23 3. "Rural carrier petition" means a petition filed with commission under 47
24 USC 251 (f) (2) for suspension or modification of the requirements of 47 USC 251 (b)
25 or (c).

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1 4. “Rural telephone company exemption” means the exemption from the
2 requirements of 47 USC 251 (c) that applies to a rural telephone company under 47
3 USC 251 (f) (1).

4 5. “Small telecommunications utility” means a telecommunications utility that
5 has less than 50,000 access lines in use in this state. For purposes of this subdivision,
6 if a telecommunications utility is owned, controlled, or held by a holding company,
7 the number of access lines in use in this state by the telecommunications utility
8 shall include the number of access lines in use in this state by all other
9 telecommunications utilities, other than commercial mobile radio service
10 providers, that are owned, controlled, or held by the holding company.

11 (b) 1. Except as provided in subd. 2.:

12 a. A small telecommunications utility may guarantee a loan for an affiliated
13 interest if the loan is made before the the first day of the 60th month beginning after
14 the effective date of this subdivision 1. a. [revisor inserts date], and the purpose
15 of the loan is to partially or completely fund the cost of equipment that the affiliated
16 interest will use to provide telecommunications services, cable television services, or
17 both.

18 b. A small telecommunications utility may allow an affiliated interest free use
19 of any of the utility’s intangible assets, including its name, goodwill, patents, and
20 trademarks, if the affiliated interest uses the intangible asset to provide
21 telecommunications services, cable television services, or both.

22 2. A small telecommunications utility may not guarantee a loan under subd.
23 1. a. or allow use of an intangible asset under subd. 1. b., unless the small
24 telecommunications utility waives the right to withhold consent under s. 196.50 (1)
25 (b) 2. b. in any proceeding under s. 196.50 (1) (b).

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1 (c) 1. During the life of a loan guaranteed by a small telecommunications utility
2 under par. (b) 1. a., if the small telecommunications utility files a rural carrier
3 petition or the commission determines under 47 USC 251 (f) (1) (B) not to terminate
4 the small telecommunication utility's rural telephone company exemption, the
5 affiliated interest shall annually pay to the small telecommunications utility an
6 amount equal to one-quarter of one percent of the outstanding balance of the loan.

7 2. After a small telecommunications utility allows use of an intangible asset
8 under par. (b) 1. b., if the small telecommunications utility files a rural carrier
9 petition or the commission determines under 47 USC 251 (f) (1) (B) not to terminate
10 the small telecommunication utility's rural telephone company exemption, the
11 affiliated interest shall annually pay the small telecommunications utility an
12 amount equal to one-quarter of one percent of the affiliated interest's annual gross
13 sales.

14 3. The duty to make payments under subd. 1. or 2. begins on the date that the
15 small telecommunications utility files the rural carrier petition or on the date that
16 the commission determines not to terminate the rural telephone company
17 exemption.

18 **SECTION 31.** 196.204 (3) of the statutes is renumbered 196.204 (3) (a).

19 **SECTION 32.** 196.204 (3) (b) of the statutes is created to read:

20 196.204 (3) (b) The commission shall promulgate rules that require the
21 minimum accounting and reporting requirements under par. (a) that apply to
22 transactions between small telecommunications utilities, as defined in sub. (1r) (a)
23 5., and affiliated interests, as defined in s. 196.52 (1), to conform with the
24 requirements under 47 CFR 32.27.

25 **SECTION 33.** 196.219 (1) (c) of the statutes is created to read:

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1 196.219 (1) (c) “Wholesale services” include preordering, ordering and
2 provisioning, maintenance and repair, network performance, unbundled elements,
3 operator services and directory assistance, system performance, service center
4 availability, billing, and any other service that the commission specifies by order.

5 **SECTION 34.** 196.219 (3) (p) of the statutes is created to read:

6 196.219 (3) (p) Fail to provide wholesale services to another
7 telecommunications provider on the same terms and conditions that the
8 telecommunications utility or telecommunications provider provides to itself or to
9 any of its affiliates.

10 **SECTION 35.** 196.219 (3m) of the statutes is created to read:

11 196.219 (3m) WHOLESALE SERVICE STANDARDS. (a) In this subsection:

12 1. “Repeat trouble report” means a trouble report by a wholesale customer who
13 has previously made a trouble report regarding the same wholesale service.

14 2. “Trouble report” means a report to a telecommunications provider by a
15 wholesale customer about a problem regarding a wholesale service provided by the
16 telecommunications provider.

17 (b) No later than the first day of the 4th month beginning after the effective date
18 of this paragraph [revisor inserts date], the commission shall, by order, establish
19 nondiscriminatory standards that, except as provided in par. (d), require a
20 telecommunications provider to do all of the following:

21 1. Provision wholesale services and related facilities in a timely manner.

22 2. Repair wholesale service outages in a timely manner.

23 3. Minimize the frequency of trouble reports, including trouble reports within
24 30 days after initiating a wholesale service.

25 4. Minimize the frequency of repeat trouble reports.

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1 (c) The order under par. (b) may require a telecommunications provider that
2 fails to comply with the order to make payments to another telecommunications
3 provider that is affected by the failure to comply or to the commission in amounts and
4 according to schedules that are specified in the order. The commission may use the
5 payments for any purpose determined by the commission relating to maintaining or
6 improving telecommunications service quality, including compensating persons who
7 are affected by the failure to comply with the order.

8 (d) The commission may, upon its own motion or a petition from an interested
9 person, issue an order exempting a telecommunications provider from the order or
10 any requirement of the order issued under par. (b), or imposing a requirement that
11 is less stringent than a requirement of the order issued under par. (b), if the
12 commission finds, after notice and hearing, that an order under this paragraph is in
13 the public interest and the telecommunications provider that is the subject of the
14 order has not violated the order issued under par. (b) or any other requirement of this
15 section or any of the following:

16 1. A provision of the federal Telecommunications Act of 1996 relating to
17 wholesale service.

18 2. A regulation or order issued under the federal Telecommunications Act of
19 1996 relating to wholesale service.

20 3. An interconnection agreement approved by the commission.

21 (e) After the commission issues the order under par. (b), the commission may
22 promulgate rules that implement the requirements of this subsection.

23 **SECTION 36.** 196.37 (2) of the statutes is amended to read:

24 196.37 (2) If the commission finds that any measurement, regulation, practice,
25 act or service is unjust, unreasonable, insufficient, preferential, unjustly

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1 discriminatory or otherwise unreasonable or unlawful, or that any service is
2 inadequate, or that any service which reasonably can be demanded cannot be
3 obtained, the commission shall determine and make any just and reasonable order
4 relating to a measurement, regulation, practice, act or service to be furnished,
5 imposed, observed and followed in the future. An order under this subsection against
6 a telecommunications provider may require the telecommunications provider to
7 make payments in amounts specified in the order to persons affected by the
8 measurement, regulation, practice, act, or service or to the commission. The
9 commission may use any payment received under this subsection for any purpose
10 determined by the commission relating to maintaining or improving
11 telecommunications service quality, including compensating persons who are
12 affected by the measurement, regulation, practice, act, or service.

13 **SECTION 37.** 227.01 (13) (cm) of the statutes is created to read:

14 227.01 (13) (cm) Is an order under s. 196.196 (6) (f) or (h) 2., 196.1995 (5) (a),
15 or 196.219 (1) (c) or (3m) (b).

16 **SECTION 38. Nonstatutory provisions.**

17 (1) RULES DEFINING "EFFECTIVE COMPETITION."

18 (a) *Emergency rules.* The public service commission shall use the procedure
19 under section 227.24 of the statutes to promulgate the rules required under sections
20 196.025 (6) (b) 4., 196.195 (1g), and 196.196 (1) (em) 3. of the statutes, as affected by
21 this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency
22 rules shall remain in effect until the date on which the permanent rules take effect.
23 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the public service
24 commission is not required to provide evidence that promulgating an emergency rule
25 under this paragraph is necessary to preserve the public peace, health, safety, or

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1 welfare and is not required to provide a finding of emergency for a rule promulgated
2 under this paragraph.

3 (b) *Proposed permanent rules.* The public service commission shall submit in
4 proposed form the rules required under sections 196.025 (6) (b) 4., 196.195 (1g), and
5 196.196 (1) (em) 3. of the statutes, as affected by this act, to the legislative council
6 staff under section 227.15 (1) of the statutes no later than the first day of the 7th
7 month beginning after the effective date of this paragraph.

8 (2) PROPOSED ACCOUNTING RULES FOR SMALL TELECOMMUNICATIONS UTILITIES. The
9 public service commission shall submit in proposed form the rules required under
10 sections 196.204 (3) (b) of the statutes, as created by this act, to the legislative council
11 staff under section 227.15 (1) of the statutes no later than the first day of the 4th
12 month beginning after the effective date of this subsection.

SECTION 39. Initial applicability.

13
14 (1) The treatment of section 100.207 (3) (a) and (d), (3m), (5), (6) (b) 1., (c), (em)
15 1., and (g), and (7) of the statutes first applies to changes in telecommunications
16 services made on the effective date of this subsection.

17 (2) The treatment of section 196.196 (6) (b) of the statutes first applies to
18 reports made on the effective date of this subsection.

19 (3) The treatment of section 196.196 (6) (c) of the statutes first applies to orders
20 made on the effective date of this subsection.

21 (4) The treatment of section 196.37 (2) of the statutes first applies to orders
22 issued on the effective date of this subsection.

23 **SECTION 40. Effective dates.** This act takes effect on the day after publication,
24 except as follows:

