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Today

NOTE

2001 BILL

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RPN has been RUN

Regenerate

1 AN ACT *to renumber* 196.219 (2m) and 196.44 (1); *to renumber and amend*

2 100.207 (1), 196.202 (2) and 196.50 (4); *to amend* 196.196 (1) (g) 1. a., 196.219

3 (2m) (title), 196.219 (4) (a), 196.219 (4) (b), 196.22, 196.37 (1), 196.37 (2),

4 196.499 (1) (b), 196.50 (4) (title), 196.66 (1), 196.66 (3) (b) (intro.), 198.12 (6) and

5 198.22 (6); and *to create* 15.155 (5), 20.143 (3) (je), 20.143 (3) (jm), 20.143 (3)

6 (js), 20.143 (3) (kv), 20.155 (1) (Ls), 100.2065, 100.207 (1) (a), 100.207 (3g),

7 100.207 (3m), 100.207 (5g), 100.207 (5m), 100.207 (6) (bg), 100.207 (6) (br),

8 146.70 (3m), 196.02 (13), 196.025 (1m), 196.196 (5) (f) 1. g., 196.196 (5) (f) 4.,

9 196.196 (6), 196.202 (2) (b), 196.203 (6), 196.219 (1) (c), 196.219 (2m) (b),

10 196.219 (3) (p), 196.219 (3m), 196.219 (3s), 196.219 (6), 196.44 (1) (b), 196.499

11 (12) (am), 196.50 (4) (a), 196.50 (4) (c) and 227.01 (13) (cm) of the statutes;

12 **relating to:** creating a wireless 911 board; imposing a surcharge on wireless

13 telephone customers; making grants for 911 emergency telephone service;

14 retail and wholesale telecommunications service standards;

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jurisdictional and enforcement authority of the department of agriculture, trade and consumer protection;

1 telecommunications access rates; enforcement authority of the public service
 2 commission, regarding telecommunications providers; construction and
 3 ownership of telecommunications facilities by local units of government;
 4 services provided by telecommunications providers; authority of the public
 5 service commission regarding area codes and telephone numbers and
 6 telecommunications-related decisions, orders, and rules; providing an
 7 exemption from rule-making procedures; granting rule-making authority;
 8 making appropriations; and providing penalties.

Analysis by the Legislative Reference Bureau

This bill creates a wireless 911 board that makes grants for providing 911 wireless emergency telephone service. The grants are funded by a surcharge paid by wireless customers. These provisions are discussed below. The bill also does all of the following with respect to the regulation of telecommunications providers, which are discussed below: 1) requires the public service commission (PSC) to establish retail and wholesale service standards; 2) makes changes to the PSC's enforcement authority; 3) restricts ownership or construction of telecommunications facilities by local units of government; 4) makes changes to the telecommunications consumer protection law; and 5) makes various other changes.

911 wireless emergency telephone service

The bill creates a wireless 911 board (board), consisting of the following 12 members: 1) one representative appointed by the speaker of the assembly; 2) one representative appointed by the assembly minority leader; 3) one senator appointed by the president of the senate; 4) one senator appointed by the senate minority leader; 5) four members who represent wireless telecommunications providers and who are appointed by the governor; and 6) four members who represent public agencies that operate emergency telephone service systems and who are appointed by the governor.

The bill requires wireless telecommunications providers to impose a 50-cent surcharge on customer bills and pay the surcharge to the board, except that in fiscal year 2002-03, a wireless telecommunications provider may retain 2% of the surcharge for reimbursing the cost of collecting the surcharge. The surcharge must be imposed on the first bills issued after July 1, 2002. The board may promulgate rules to increase or decrease the surcharge, but the board may increase the surcharge only once per year. In addition, any increase must be uniform statewide and may not exceed 10 cents, and the surcharge may never exceed \$1.

The board must use the surcharge to make grants to wireless telecommunications providers and public agencies that operate emergency

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* telephone systems. A wireless telecommunications provider is eligible for a grant if it is subject to orders of the Federal Communications Commission (FCC) regarding wireless 911 emergency telephone service. The grants must be used for specified expenses incurred by wireless telecommunications providers to comply with the FCC's orders. A public agency is eligible for a grant only if the board determines that the agency is providing, or has begun to implement, 911 emergency services for wireless users and the agency has complied with the FCC's orders. A grant to a public agency must be used for specified expenses related to the operation of an emergency telephone system. In addition, the total amount in grants that a public agency may receive may not exceed 50% of the agency's eligible expenses.

The board may use no more than 2.5% of the surcharges collected in a fiscal year for the board's general program operations. Half of the remaining amount must be placed in an account for grants to wireless telecommunications providers, and the other half is placed in an account for grants to public agencies. However, if there is insufficient money for a grant to a wireless telecommunications provider, the board may, under certain circumstances, make a grant to a wireless telecommunications provider from the account for public agencies. If the board makes such a grant, the board must, as soon as practicable, transfer an amount equal to the grant to the public agency account from the wireless telecommunications provider account.

The bill creates other requirements for the grant program, including the following:

1. The bill allows the board to make grants in installments, if there are insufficient funds in a surcharge account.
2. The bill allows the board to withhold from public inspection any information the board receives that would aid the competitor of a wireless provider.
3. The bill requires the board to contract for independent audits of grant applications. The board must also establish procedures that prohibit members of the board from having access to confidential business information submitted by wireless telecommunications providers.
4. The bill prohibits cities, villages, towns, counties, and other state agencies from requiring wireless telecommunications providers to collect or pay a surcharge or fee related to wireless emergency telephone service.
5. The bill requires the board to submit an annual report to the legislature regarding the grant program.
6. The bill's requirements regarding the surcharge and grant program do not apply after the first day of the 60th month beginning after the bill's effective date.

Retail and wholesale service standards

The bill requires the PSC, no later than 90 days after the bill's effective date, to issue orders that establish retail and wholesale service standards. The retail standards apply to initiating service and repairing outages in a timely manner, minimizing repeat reports by customers regarding trouble with service, minimizing waiting time during customer calls to service centers, and complying with any other standard specified by the PSC. The retail standards apply to a telecommunications utility with more than 500,000 access lines in the state. The PSC may also order other telecommunications providers to comply with the standards, if such a provider

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engages in a demonstrated pattern of poor retail service or intentional misconduct related to retail service. The PSC may also order a telecommunications provider who fails to comply with the standards to issue credits to affected customers.

The order on wholesale service standards applies to initiating service and repairing outages in a timely manner, minimizing repeat reports by customers regarding trouble with service, and complying with any other standard the PSC specifies. The wholesale standards apply to telecommunications utilities that the PSC specifies in the order or in a subsequent order. The bill ~~also defines~~ "wholesale services" ~~to include preordering, ordering and provisioning, maintenance and repair, network performance, unbundled elements, operator services and directory assistance, system performance, service center availability, and billing.~~ In addition, the bill allows the PSC, by order, ~~to modify the definition.~~

The bill also requires telecommunications utilities and providers to provide wholesale services on the same terms and conditions that the utility or provider receives from any other provider. However, if the utility or provider receives such services on different terms and conditions from different providers, the utility or provider must provide such services on the terms and conditions that result in the highest quality of service.

PSC enforcement authority

Under current law, telecommunications utilities and providers are subject to certain requirements regarding the protection of consumers, including other telecommunications utilities and providers that use their services. There are several provisions for enforcing these requirements, including the following two. First, PSC, on its own motion or upon a complaint filed by a consumer, may take administrative action or commence civil actions against telecommunications utilities and providers to enforce these requirements. This bill provides that the PSC has jurisdiction in its own name or on behalf of consumers to take such actions. ~~The bill also clarifies that the PSC's authority to take administrative action includes initiating a contested case.~~

Second, under current law, the PSC may bring an action in court for injunctive relief for compelling compliance with the requirements, for compelling refunds of any moneys collected in violation of the requirements, or for any other relief under the public utility statutes. This bill allows the PSC also to take administrative action, in addition to bringing an action in court, for compelling compliance with the requirements or for compelling refunds. In addition, the bill allows the PSC to take administrative action or bring an action in court for any other appropriate relief, instead of just any other relief under the public utility statutes. Also, the bill allows the PSC to directly impose forfeitures for violations of the requirements.

Furthermore, the bill makes other changes to the enforcement authority of the PSC, including the following:

1. Under current law, the PSC may investigate whether rates, tolls, charges, schedules, or joint rates are unjust, unreasonable, insufficient, unjustly discriminatory or preferential, or unlawful and may order that reasonable rates, tolls, charges, schedules, or joint rates be imposed, observed, or followed in the future. With respect to telecommunications providers, this bill ~~allows~~ the PSC also

clarifies that

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^{may} ~~to~~ order reasonable compensation for persons injured by reason of rates, tolls, charges, schedules, or joint rates of telecommunications providers that are investigated. The bill also ~~allows~~ ^{clarifies that} the PSC ~~to~~ ^{may} order a telecommunications provider to make payments to the PSC or to a person affected by the rates, tolls, charges, schedules, or joint rates. The PSC may use a payment that it receives for any purpose determined by the PSC relating to maintaining or improving telecommunications quality.

2. Under current law, public utilities and certain other entities, such as telecommunications providers, that violate laws enforced by the PSC, PSC orders, and certain other requirements are subject to a forfeiture of between \$25 and \$5,000, for each day of violation, which is imposed by a court. Under this bill, the PSC may also impose such a forfeiture against a telecommunications provider by administrative action.

3. Under current law, the PSC is required to inquire into neglect or violation of laws by public utilities and telecommunications carriers, enforce such laws, and report all violations to the attorney general. This bill also allows the PSC to take administrative action and to institute and prosecute all necessary actions and proceedings for enforcing all laws relating to telecommunications providers or telecommunications carriers, and for the punishment of all violations.

4. The bill allows a court ~~or the PSC~~ to impose a forfeiture on a price-regulated telecommunications utility that provides inadequate services or makes insufficient investments. The amount of the forfeiture may not exceed the dollar value of the decrease in the utility's rates that would result from applying a penalty mechanism of five percentage points and an incentive mechanism of zero percentage points under a price cap formula under current law. INSERT 5-2,04

5. The bill allows the PSC to order a telecommunications provider that fails to comply with requirements under the bill and current law regarding the protection of consumers to provide consumers who are affected by the failure with billing credits or other remedies specified in the order. Also, the bill allows a court to impose a forfeiture of no more than \$5,000 against a small telecommunications utility that violates the consumer protection requirements. A "small telecommunications utility" is a utility with less than 50,000 access lines. Other telecommunications providers that violate the requirements may be required to forfeit not more than \$30,000, or 0.00825% of the provider's annual gross operating revenues, whichever is greater. For both small telecommunications utilities and other telecommunications providers, each day of violation constitutes a separate offense.

Local government construction and ownership of telecommunications facilities

on a nondiscriminatory basis The bill prohibits local units of government from owning or constructing telecommunications facilities that are used to provide service to the public, unless the local unit of government leases the facility to a telecommunications provider that is not a local unit of government. In addition, the electorate of the local unit of government must approve the lease in a referendum. ~~Also,~~ ^{and} the local unit of government must submit a financing plan and budget to the PSC. For a local unit of government that owns or has commenced construction ~~on~~ ^{obtained financing for} a telecommunications

INSERT 5-2.30

or alternative telecommunications utility

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INSERT
6-2-31

That is not a service that is ^{not} always provided during each billing period

facility on the effective date of the bill, the prohibition does not apply until five years after the effective date.

Restrictions on telecommunications providers in initiating service and restrictions on contracts

This bill provides that a telecommunications provider may not provide a telecommunications service to a person unless the telecommunications provider reasonably believes that the person knowingly consented to receive the service. The telecommunications provider must also confirm, before providing the telecommunications service, that the person knowingly consented to receive the service. The bill also requires that the telecommunications provider inform the person that he or she may, before the service is activated, withdraw consent to receive the service and requires that the telecommunications provider inform the person of the manner by which that consent may be withdrawn.

This bill also prohibits a telecommunications provider from placing in a contract to provide telecommunications services a clause that provides that the laws of any state other than this state apply to the parties or terms of the contract or to any right or remedy under the contract.

Restrictions on telecommunications providers in billing other services

This bill provides that a telecommunications provider may not bill a customer for goods or services that are not telecommunications services provided by that telecommunications provider unless the telecommunications provider reasonably believes that the customer knowingly consents to receive the bill and the provider confirms that consent with the customer. If a customer consents, the bill requires that the telecommunications provider distinguish on the bill between the billing for telecommunication services and the billing for the other goods or services. Finally, if requested to do so by a customer who has consented to being billed for the other goods or services, the telecommunications provider shall provide a detailed itemized listing of the charges for those goods or services.

Other changes

The bill makes other changes to the regulation of telecommunications providers, including all of the following:

1. The bill requires the PSC, in making telecommunications-related decisions and orders, to promote the availability of high quality telecommunications services at reasonable rates, facilitate the development of competitive markets for local telecommunications services, protect the public against ~~monopolies~~ *anticompetitive behaviour*, and ensure the effective regulation of ~~large price-regulated~~ telecommunications utilities that have control or market power over essential telecommunications facilities.

2. The bill provides that, to the extent authorized under federal law, the PSC has jurisdiction to supervise and regulate telephone numbers and area codes used by any telecommunications provider.

3. The bill allows the PSC to require telecommunications providers and providers of cable television service to provide information that the PSC determines is necessary for the PSC to prepare a biennial report regarding the status of investments in advanced telecommunications infrastructure that the PSC must

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submit to the joint committee on information policy and technology under current law.

4. The bill allows the PSC to order rates, tolls, and charges of certain telecommunications utilities whose access rates exceed benchmark levels specified in a PSC order regarding access costs and charges.

5. The bill prohibits the provider of any broadcast audio or video service or any cable television telecommunications service from transmitting from this state any programming that is encrypted in such a manner that the programming may not be recorded by the recipient of the programming for the recipient's personal use. Current federal law specifies the extent to which a recipient may record programming for personal use.

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

INSEPT
7-2-06

SECTION #. 15.795 (title) amended
15.795 (title) Same; attached board and office.

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

15.795 Same; attached board
15.795 (5) (c) 2 X
BF

- 1 SECTION 1. ~~15.155 (5)~~ of the statutes is created to read:
- 2 ~~15.155 (5)~~ WIRELESS 911 BOARD. (a) There is created a wireless 911 board
- 3 attached to the ~~department of commerce~~ under s. 15.03 consisting of the following
- 4 members: public service commission
- 5 1. One representative to the assembly, appointed by the speaker of the
- 6 assembly.
- 7 2. One representative to the assembly, appointed by the assembly minority
- 8 leader.
- 9 3. One senator, appointed by the president of the senate.
- 10 4. One senator, appointed by the senate minority leader.
- 11 5. Four persons who represent the interests of commercial mobile radio service
- 12 providers, as defined in s. 196.01 (2g), appointed by the governor.
- 13 6. Four persons who represent the interests of public agencies, as defined in s.
- 14 146.70 (1) (f), or public safety agencies, as defined in s. 146.70 (1) (g), that operate

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INSERT 8-4
(see line 24 below)

1 public safety answering points, as defined in s. 146.70 (1) (gm), appointed by the
2 governor.

INSERT 8-5

3 (b) The members appointed under par. (a) 5. and 6. shall serve 3-year terms
4 and may not serve more than 2 consecutive terms.

5 SECTION 2. ^{20.155} ~~20113~~ (3) (j) of the statutes is created to read:

6 ^{20.155} ~~20113~~ (3) (j) ~~Wireless 911 board~~ ^g ~~and~~ ^g ~~general program operations.~~ Two and
7 one-half percent of all moneys received under s. 146.70 (3m) (d) 3. for general
8 program operations of the wireless 911 board, including contracting for audits under
9 s. 146.70 (3m) (b) 5.

10 SECTION 3. ^{20.155} ~~20113~~ (3) (k) of the statutes is created to read:

11 ^{20.155} ~~20113~~ (3) (k) ^h ~~Wireless provider grants.~~ Forty-eight and three-fourths
12 percent of all moneys received under s. 146.70 (3m) (d) 3. for the wireless 911 board
13 to make grants to wireless providers under s. 146.70 (3m) (b) 2. and to make transfers
14 to the appropriation under par. (k) ^h as provided under s. 146.70 (3m) (b) 3.

15 SECTION 4. ^{20.155} ~~20113~~ (3) (l) of the statutes is created to read:

16 ^{20.155} ~~20113~~ (3) (l) ⁱ ~~Public agency and wireless provider grants.~~ Forty-eight and
17 three-fourths percent of all moneys received under s. 146.70 (3m) (d) 3. for the
18 wireless 911 board to make grants to public agencies under s. 146.70 (3m) (b) 1. and
19 to wireless providers under s. 146.70 (3m) (b) 3.

20 SECTION 5. ^{20.155} ~~20113~~ (3) (m) of the statutes is created to read:

21 ^{20.155} ~~20113~~ (3) (m) ^j ~~Public agency grants.~~ All moneys transferred from the
22 appropriation account under par. (m) ^h for the wireless 911 board to make grants to
23 public agencies under s. 146.70 (3m) (b) 1.

24 INSERT
8-4

SECTION 6. ^{20.155} (1) (Ls) of the statutes is created to read:

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INSEAT 8-4 (cont'd):

1 20.155 (1) (Ls) *Telecommunications provider payments*. All moneys received
2 from payments by telecommunications providers under s. 196.37 (2) for purposes
3 determined by the commission under s. 196.37 (2). END OF INSEAT 8-4

INSEAT
9-23

4 SECTION 7. 100.2065 of the statutes is created to read:

5 **100.2065 Encryption of audio and video programming prohibited. (1)**

6 In this section:

7 (a) "Broadcast service" has the meaning given in s. 196.01 (1m).

8 (b) "Cable television service" has the meaning given s. 196.01 (1p).

9 (2) No person who provides a broadcast service or a cable television service may
10 transmit from this state programming that is encrypted in such a manner that the
11 programming may not be recorded by a recipient of the programming for the
12 recipient's personal use, unless the personal use is prohibited under federal law.

13 SECTION 8. 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.) and
14 amended to read:

DEFINITIONS

15 100.207 (1) ~~DEFINITION~~ (intro.) In this section, "telecommunications:

16 (b) "Telecommunications service" has the meaning given in s. 196.01 (9m).

17 SECTION 9. 100.207 (1) (a) of the statutes is created to read:

18 100.207 (1) (a) "Telecommunications provider" has the meaning given in s.
19 196.01 (8p).

20 SECTION 10. 100.207 (3g) of the statutes is created to read:

21 100.207 (3g) BILLING FOR OTHER SERVICES. (a) A telecommunications provider
22 may not bill a customer for any goods or services, other than telecommunications
23 service provided by the telecommunications provider, unless all of the following

24 apply:

INSEAT 9-19

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1 1. The telecommunications provider reasonably believes that the ^{customer} ~~person~~
2 knowingly consented to the billing.

3 2. The telecommunications provider confirms with the ^{customer} ~~person~~, before providing
4 the telecommunications service, that the ^{customer} ~~person~~ knowingly consented to the billing.

5 (b) If a customer consents to being billed under par. (a), all of the following shall
6 apply:

7 1. The telecommunications provider shall distinguish the billing for the other
8 goods or services from the billing for the telecommunications service in a conspicuous
9 manner approved by the department.

10 2. The telecommunications provider shall provide a detailed itemized listing
11 of the charges for the goods or services if requested to do so by the customer.

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

13 100.207 **(3m)** TELECOMMUNICATIONS SERVICE CONFIRMATION. (a) A
14 telecommunications provider may not provide a telecommunications service to a
15 ^{customer} ~~person~~ unless all of the following apply:

16 1. ~~(a)~~ The telecommunications provider reasonably believes that the ^{customer} ~~person~~
17 knowingly consented to receive the service.

18 2. ~~(b)~~ The telecommunications provider confirms with the ^{customer} ~~person~~, before
19 providing the telecommunications service, that the ^{customer} ~~person~~ knowingly consented to
20 receive the service.

21 3. ~~(c)~~ At the time that the telecommunications provider provides confirmation
22 under ^{subd. 2.} ~~(par. (b))~~, the telecommunications provider informs the ^{customer} ~~person~~ that he or she
23 may, before the service is activated, withdraw his or her consent to receive the service
24 and informs the ^{customer} ~~person~~ of the manner by which that consent may be withdrawn.

25 **SECTION 12.** 100.207 (5g) of the statutes is created to read:

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10-24

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BILL

1 100.207 (5g) RESTRICTIONS ON CONTRACTS. No telecommunications provider
2 may place in a contract entered into with a customer located in this state a clause that
3 provides that a law of a state other than this state applies to the parties or terms of
4 the contract or the rights and remedies under the contract.

5 **SECTION 13.** 100.207 (5m) of the statutes is created to read:

6 100.207 (5m) RECORD REQUIREMENTS. Any person who provides
7 telecommunications service to any ~~person~~^{customer} in this state shall maintain each billing
8 and collection record that is made in providing the telecommunications service for
9 a period of ~~10~~⁵ years beginning on the date that the record is made.

10 ~~**SECTION 14.** 100.207 (6) (bg) of the statutes is created to read:
11 100.207 (6) (bg) 1. Any person who has been served with a department
12 complaint, notice, order, or other process as authorized in s. 93.18 (5) shall be subject
13 to the department's authority and jurisdiction, as limited by subd. 2.
14 2. The department's jurisdiction may not exceed the jurisdiction granted to
15 courts under s. 815.05.~~

16 **SECTION 15.** 100.207 (6) (br) of the statutes is created to read:

17 100.207 (6) (br) Any person who fails to comply with a subpoena, order, or civil
18 investigative demand that is served upon the person for the purposes of
19 administering or enforcing this section or for the purpose of conducting an
20 investigation under this section may be coerced to comply as provided in s. 885.12.

21 **SECTION 16.** 146.70 (3m) of the statutes is created to read:

22 146.70 (3m) WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

23 1. "Board" means the wireless 911 board.

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SECTION 16

1 2. "Federal wireless orders" means the orders of the federal communications
2 commission regarding 911 emergency services for wireless telephone users in FCC
3 docket no. 94-102.

4 3. "Wireless provider" means a commercial mobile radio service provider, as
5 defined in s. 196.01 (2g), that is subject to the federal wireless orders.

6 4. "Wireless public safety answering point" means a facility to which a call on
7 a wireless provider's system is initially routed for response, and on which a public
8 agency directly dispatches the appropriate emergency service provider, relays a
9 message to the appropriate emergency service provider, or transfers the call to the
10 appropriate emergency services provider.

11 (b) *Grants.* 1. From the appropriations under s. ~~20.155~~ (3) ~~(k)~~ and (k), the
12 board shall make grants to public agencies that operate public safety answering
13 points for eligible expenses under par. (c). A public agency is eligible for a grant
14 under this subdivision only if the board determines that the public agency is
15 providing, or has begun to implement, 911 emergency services for wireless telephone
16 users and has complied with the federal wireless orders. The total amount in grants
17 that a public agency may receive under this subdivision may not exceed 50% of the
18 public agency's total eligible expenses under par. (c). ✓

19 2. From the appropriation under s. ~~20.155~~ (3) ~~(h)~~, the board shall make grants
20 to wireless providers for actual expenses incurred by wireless providers to upgrade,
21 purchase, lease, program, install, test, operate, or maintain all data, hardware, and
22 software necessary to comply with the federal wireless orders.

23 3. If the board determines that there are insufficient funds in the appropriation
24 account under s. ~~20.155~~ (3) ~~(h)~~ to make a grant under subd. 2., and the board has
25 not paid a grant under subd. 1. or an installment under subd. 4. in the preceding 3

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1 months, the board may make the grant to the wireless provider from the
2 appropriation account under s. ~~20.143~~^{20.155}(3) ~~(a)~~^l. If the board makes a grant under this
3 subdivision, the board shall, as soon as practicable, transfer moneys from the
4 appropriation account under s. ~~20.143~~^{20.155}(3) ~~(a)~~^h to the appropriation account under s.
5 ~~20.143~~^{20.155}(3) ~~(a)~~ in an amount equal to the amount of the grant.

6 4. If the board determines that there are insufficient funds in an appropriation
7 to make a grant under this paragraph, the board may make the grant in
8 installments.

9 5. The board shall contract for independent audits of applications for grants
10 under this paragraph. An applicant shall provide an auditor with any relevant
11 confidential business information.

12 (c) *Public agency eligible expenses.* 1. A public agency may receive a grant
13 under par. (b) 1. for actual expenses that the public agency directly and primarily
14 incurred for leasing, purchasing, operating, or maintaining a wireless public safety
15 answering point, including expenses for all of the following:

16 a. Necessary network equipment, computer hardware and software, database
17 equipment, and radio and telephone equipment, that are located within the public
18 safety answering point.

19 b. Training operators of a public safety answering point.

20 c. Network costs for delivery of calls from a wireless provider to a public safety
21 answering point.

22 2. Except for expenses under subd. 1., a public agency may not receive a grant
23 under par. (b) 1. for any of the following:

BILL**SECTION 16**

1 a. Emergency service dispatch, including personnel, training, equipment,
2 software, records management, radio communications, and mobile data network
3 systems.

4 b. Vehicles and equipment in vehicles.

5 c. Communications equipment and software used to communicate with
6 vehicles.

7 d. Real estate and improvements to real estate, other than improvements
8 necessary to maintain the security of a public safety answering point.

9 e. Salaries and benefits of operators of a public safety answering point.

10 (d) *Wireless surcharge.* 1. Each wireless provider shall impose a surcharge of
11 50 cents per month for each telephone number that has a billable address in this state
12 and shall identify the surcharge on a customer's bill on a separate line that is
13 identified as "Wisconsin Wireless 911 Surcharge." The board may promulgate rules
14 that increase or decrease the surcharge, except that the board may not increase the
15 surcharge more than once per year, any increase must be uniform statewide and may
16 not exceed 10 cents, and the surcharge may not exceed \$1.

17 2. A wireless provider may not prorate the surcharge and shall collect the entire
18 amount of the surcharge for a month of partial service.

19 3. The board shall promulgate rules establishing requirements for wireless
20 providers to collect the surcharge from their customers beginning with the first bills
21 issued after July 1, 2002. Except as provided in subd. 4., a wireless provider shall
22 pay the surcharges to the board no more than 60 days after the end of the calendar
23 month in which the surcharges are collected. The board shall bring an action to
24 collect a surcharge that is not paid by a customer and the customer's wireless
25 provider is not liable for the unpaid surcharge.

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1 4. Wireless providers may retain 2% of the surcharges collected in fiscal year
2 2002–03 for reimbursing costs related to collecting the surcharge, including
3 reprogramming billing systems.

4 (e) *Confidentiality of information.* The board may withhold from public
5 inspection any information that would aid a competitor of a wireless provider in
6 competition with the wireless provider. The board shall establish procedures for
7 internal management that prohibit members of the board from having access to
8 confidential business information submitted by wireless providers.

9 (f) *Public information.* The board shall promulgate rules establishing
10 requirements and procedures for informing the public about the purpose and uses
11 of the surcharge required under this subsection. The rules shall require the board
12 to maintain a toll-free telephone number to provide such information to the public
13 and require wireless providers to identify the toll-free number on bills and direct
14 customers to contact the board regarding questions about the surcharge.

15 (g) *Other charges prohibited.* No city, village, town, county, or state agency, as
16 defined in s. 16.375 (1), except the board, may require a wireless provider to collect
17 or pay a surcharge or fee related to ~~wireless~~ emergency telephone service.

18 (h) *Liability exemption.* A wireless provider shall not be liable to any person
19 who uses a wireless emergency telephone number system for which a grant is made
20 under par. (b).

21 (i) *Report to governor and legislature.* Annually, the board shall submit a report
22 to the governor, and to the chief clerk of each house of the legislature for distribution
23 to the legislature under s. 13.172 (2), that describes the costs incurred by wireless
24 providers and public agencies in providing emergency wireless telephone service and
25 the grants made by the board.

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1 (j) *Board powers.* The board shall possess all powers necessary or convenient
2 for administering the requirements of this subsection.

3 (k) *Sunset.* This subsection does not apply after the first day of the 60th month
4 beginning after the effective date of this paragraph [revisor inserts date].

5 **SECTION 17.** 196.02 (13) of the statutes is created to read:

6 196.02 (13) TELEPHONE NUMBERS AND AREA CODES. To the extent authorized
7 under federal law, the commission has jurisdiction to supervise and regulate
8 telephone numbers and area codes used by any telecommunications provider in this
9 state and to do all things necessary and convenient to such jurisdiction. The
10 commission may withhold from public inspection any information obtained from a
11 telecommunications provider under this subsection that would aid a competitor of
12 the telecommunications provider.

13 **SECTION 18.** 196.025 (1m) of the statutes is created to read:

14 196.025 (1m) In making all telecommunications-related decisions and orders,
15 including rate setting and rule-making orders, the commission shall promote the
16 availability of high quality telecommunications services at reasonable rates,
17 facilitate the development of competitive markets for local telecommunications
18 services, protect the public against ~~monopolies~~ *anti competitive behaviour*, and ensure the effective regulation
19 of telecommunications utilities that have control or market power over essential
20 telecommunications facilities.

21 **SECTION 19.** 196.196 (1) (g) 1. a. of the statutes is amended to read:

22 196.196 (1) (g) 1. a. The goal to be achieved, which may include promoting
23 competition, service quality, infrastructure deployment, economic development,
24 consumer choice, productivity, efficiency, quality of life, societal goals, or universal
25 service.

1 INSERT 16-25

BILL

1 **SECTION 20.** 196.196 (5) (f) 1. g. of the statutes is created to read:

2 196.196 (5) (f) 1. g. Competition for telecommunications services throughout
3 the state.

4 **SECTION 21.** 196.196 (5) (f) 4. of the statutes is created to read:

5 196.196 (5) (f) 4. The commission may require a telecommunications provider
6 or provider of cable television service to submit to the commission any information
7 that the commission determines is necessary to prepare the report under subd. 1.
8 The commission may withhold from public inspection any information obtained
9 under this subdivision that would aid a competitor of a telecommunications provider
10 or provider of cable television service.

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

12 196.196 (6) PENALTY. A price-regulated telecommunications utility that
13 provides inadequate service or makes insufficient investment may be required to
14 forfeit no more than the dollar value of the decrease in rates that would result from
15 applying a penalty mechanism of 5 percentage points and an incentive mechanism
16 of zero percentage points under sub. (1) (c) 1. The commission may ^{directly} impose a
17 forfeiture under this subsection by administrative action. **INSERT 17-7**

18 **SECTION 23.** 196.202 (2) of the statutes, as affected by 2001 Wisconsin Act 16,
19 is renumbered 196.202 (2) (intro.) and amended to read:

20 196.202 (2) SCOPE OF REGULATION. (intro.) A commercial mobile radio service
21 provider is not subject to ch. 201 or this chapter, except as provided in sub. (5), and
22 except that as follows:

23 (a) A commercial mobile radio service provider is subject to s. 196.218 (3) if the
24 commission promulgates rules that designate commercial mobile radio service
25 providers as eligible to receive universal service funding under both the federal and

INSERT 17-18

BILL

1 state universal service fund programs. If the commission promulgates such rules,
2 a commercial mobile radio service provider shall respond, subject to the protection
3 of the commercial mobile radio service provider's competitive information, to all
4 reasonable requests for information about its operations in this state from the
5 commission necessary to administer the universal service fund.

6 **SECTION 24.** 196.202 (2) (b) of the statutes is created to read:

7 196.202 (2) (b) A commercial mobile radio service provider is subject to ss.
8 196.02 (13) and 196.196 (5) (f) 4.

9 **SECTION 25.** 196.203 (6) of the statutes is created to read:

10 196.203 (6) An alternative telecommunications utility is subject to ss. 196.02
11 (13) and 196.196 (5) (f) 4. *[Handwritten signature and scribbles over the text]*

12 **SECTION 26.** 196.219 (1) (c) of the statutes is created to read:

13 196.219 (1) (c) "Wholesale services" ^{INSEAT 13-13} include preordering, ordering and
14 provisioning, maintenance and repair, network performance, unbundled elements,
15 operator services and directory assistance, system performance, service center
16 availability, and billing. The commission may, by order, modify the definition under
17 this paragraph. *[Handwritten box: but not including]*

18 **SECTION 27.** 196.219 (2m) (title) of the statutes is amended to read:

19 196.219 (2m) (title) ACCESS SERVICES AND RATES.

20 **SECTION 28.** 196.219 (2m) of the statutes is renumbered 196.219 (2m) (a).

21 **SECTION 29.** 196.219 (2m) (b) of the statutes is created to read:

22 196.219 (2m) (b) 1. In this paragraph, "access order" means the March 23, 1993,
23 order of the commission on intrastate access costs and charges in docket number
24 05-TR-103.

BILL

1 2. Except as provided in subd. 3., the commission shall investigate, determine,
2 and order rates, tolls, and charges of a telecommunications utility if the utility's
3 intrastate originating and terminating access rates exceed any of the following:

4 a. After July 1, 2004, 150% of the benchmark rate levels established in the
5 access order.

6 b. After July 1, 2006, 125% of the benchmark rate levels established in the
7 access order.

8 c. After July 1, 2008, 100% of the benchmark rate levels established in the
9 access order.

10 3. Subdivision 2. does not apply to any of the following:

11 a. A telecommunications utility regulated under s. 196.196.

12 b. A telecommunications utility whose intrastate access rates are established
13 under s. 196.195 (12).

14 c. A telecommunications utility whose intrastate access rates have been
15 reviewed and approved by the commission after September 1, 1994, and before the
16 effective date of this subd. 3. c. [revisor inserts date].

*provides to itself or to
any of its
affiliates.*

17 **SECTION 30.** 196.219 (3) (p) of the statutes is created to read:

18 196.219 (3) (p) Fail to provide wholesale services to another
19 telecommunications provider on the same terms and conditions that the
20 telecommunications utility or telecommunications provider receives from any other
21 telecommunications provider, except that, if a telecommunications utility or
22 telecommunications provider receives wholesale services on different terms and
23 conditions from different telecommunications providers, the telecommunications
24 utility or telecommunications provider shall provide wholesale services on the terms

[Large handwritten scribble covering the text of Section 30]

INSERT 19-16

BILL

1 and conditions that it receives from another telecommunications provider that result
2 in the highest quality of wholesale service

3 SECTION 31. 196.219 (3m) of the statutes is created to read:

4 196.219 (3m) RETAIL AND WHOLESAL SERVICE STANDARDS. (a) *Definitions*. In this
5 subsection:

6 1. "Repeat trouble report" means a trouble report by a retail or wholesale
7 customer who has previously made a trouble report regarding the same retail or
8 wholesale service. INSERT 20-8

9 2. "Retail service" means basic residential and business telecommunications
10 service.

11 3. "Trouble report" means a report to a telecommunications provider by a retail
12 or wholesale customer about a problem regarding a retail or wholesale service
13 provided by the telecommunications provider.

14 (b) *Retail service standards*. 1. No later than 90 days after the effective date
15 of this subdivision [revisor inserts date], the commission shall, by order, establish
16 standards that require a telecommunications provider specified in subd. 2. to do all
17 of the following:

18 a. Initiate retail service in response to orders in a timely manner.
19 b. Repair retail service outages in a timely manner.
20 c. Minimize the frequency of repeat trouble reports.
21 d. Minimize missed retail service repair appointments.
22 e. Minimize retail service customer waiting time during calls to the
23 telecommunications provider's service center.

24 f. Comply with any other requirement specified by the commission relating to
25 retail service quality.

INSERT
20-15

BILL

1 2. The standards under subd. 1. shall apply to a telecommunications utility
2 with more than 500,000 access lines in this state. The commission may, by order,
3 specify other telecommunications providers who provide local exchange service that
4 must comply with the standards if the commission finds that such a
5 telecommunications provider has engaged in a demonstrated pattern of poor retail
6 service or intentional misconduct related to retail service.

7 3. The commission may, by order, require a telecommunications provider that
8 must comply with the standards under subd. 1. to issue credits specified in the order
9 to retail service customers who are affected by the telecommunications provider's
10 failure to comply with the standards.

11 (c) *Wholesale service standards.* 1. ^{INSERT 21-11} No later than 90 days after the effective date
12 of this subdivision [revisor inserts date], ~~the commission shall~~ ^{by order}, establish
13 standards that require a telecommunications utility specified in the order to do all
14 of the following:

- 15 a. Initiate wholesale service in response to orders in a timely manner.
16 b. Repair wholesale service outages in a timely manner.
17 c. Minimize the frequency of repeat trouble reports.
18 d. Comply with any other requirement specified by the commission relating to
19 wholesale service quality.

20 2. After issuing the order under subd. 1., the commission may issue an order
21 specifying additional telecommunications utilities that must comply with the
22 standards under subd. 1.

23 ~~(d) *Rule making.* The commission may promulgate rules that implement the~~
24 ~~requirements of the orders under pars. (b) and (c).~~

25 **SECTION 32.** 196.219 (3s) of the statutes is created to read:

BILL

SECTION 32

INSERT 22-1

1 196.219 (3s) REMEDIAL ORDERS. The commission may issue an order requiring
 2 that if a telecommunications provider determines that it has failed to comply with
 3 a requirement of this section that is specified in the order, the telecommunications
 4 provider must provide its consumers who are affected by the failure with a billing
 5 credit or other remedy specified in the order.

6 **SECTION 33.** 196.219 (4) (a) of the statutes is amended to read:

7 196.219 (4) (a) ~~On the commission's own motion or upon complaint filed by the~~
 8 ~~consumer, the~~ The commission, in its own name or on behalf of consumers, shall have
 9 jurisdiction to take administrative action ~~including initiating a contested case~~ or to
 10 commence civil actions against telecommunications utilities or providers to enforce
 11 this section.

12 **SECTION 34.** 196.219 (4) (b) of the statutes is amended to read:

13 196.219 (4) (b) The commission, in its own name or on behalf of consumers,
 14 ~~may, at its discretion, take administrative action~~ ~~including initiating a contested~~
 15 ~~case~~ or institute in any court of competent jurisdiction a proceeding against a
 16 telecommunications utility or provider for injunctive relief, to compel compliance
 17 with this section, to compel the accounting and refund of any moneys collected in
 18 violation of this section, or for any other appropriate relief permitted under this
 19 chapter. The commission may directly impose forfeitures for violations of this
 20 section. by administrative action

21 **SECTION 35.** 196.219 (6) of the statutes is created to read:

22 196.219 (6) PENALTIES. (a) Except as provided in par. (b), a telecommunications
 23 provider that violates this section may be required to forfeit not more than \$30,000,
 24 or 0.00825% of the telecommunications provider's annual gross operating revenues

BILL

INSERT 23-3

1 from intrastate telecommunications service, whichever is greater, for each offense.

2 Each day of continued violation constitutes a separate offense.

3 (b) A small telecommunications utility that violates this section may be
4 required to forfeit not more than \$5,000 for each offense. Each day of continued
5 violation constitutes a separate offense.

6 (c) A court imposing a forfeiture on a telecommunications provider under this
7 subsection shall consider all of the following in determining the amount of the
8 forfeiture: INSERT 23-7

9 1. The appropriateness of the forfeiture to the volume of business of the
10 telecommunications provider.

11 2. The gravity of the violation.

12 3. Any good faith attempt to achieve compliance after the telecommunications
13 provider receives notice of the violation.

14 SECTION 36. 196.22 of the statutes is amended to read:

15 196.22 **Discrimination forbidden.** No public utility may charge, demand,
16 collect, or receive more or less compensation for any service performed by it within
17 the state, or for any service in connection therewith, than is specified in the schedules
18 for the service filed under s. 196.19, including schedules of joint rates, as may at the
19 time be in force, or demand, collect, or receive any rate, toll, or charge not specified
20 in the schedule. Payments made for violations of this chapter by telecommunications
21 providers are not contrary to this section.

22 SECTION 37. 196.37 (1) of the statutes is amended to read:

23 196.37 (1) If, after an investigation under this chapter or ch. 197, the
24 commission finds rates, tolls, charges, schedules, or joint rates to be unjust,
25 unreasonable, insufficient, or unjustly discriminatory or preferential, or otherwise

BILL

1 unreasonable or unlawful, the commission shall determine and order reasonable
 2 rates, tolls, charges, schedules, or joint rates to be imposed, observed, and followed
 3 in the future and, with respect to rates, tolls, charges, schedules, or joint rates of
 4 telecommunications providers, may determine and order reasonable compensation
 5 for persons injured by reason of such rates, tolls, charges, schedules, or joint rates.

6 SECTION 38. 196.37 (2) of the statutes is amended to read:

7 196.37 (2) If the commission finds that any measurement, regulation, practice,
 8 act, or service is unjust, unreasonable, insufficient, preferential, unjustly
 9 discriminatory, or otherwise unreasonable or unlawful, or that any service is
 10 inadequate, or that any service which reasonably can be demanded cannot be
 11 obtained, the commission shall determine and make any just and reasonable order
 12 relating to a measurement, regulation, practice, act, or service to be furnished,
 13 imposed, observed, and followed in the future. ~~An order under this subsection~~
 14 ~~against a telecommunications provider may require the telecommunications~~
 15 ~~provider to make payments in amounts specified in the order to persons affected by~~
 16 ~~the measurement, regulation, practice, act, or service or to the commission. The~~
 17 ~~commission may use any payment received under this subsection for any purpose~~
 18 ~~determined by the commission relating to maintaining or improving~~
 19 ~~telecommunications service quality, including compensating persons who are~~
 20 ~~affected by the measurement, regulation, practice, act, or service.~~

21 SECTION 39. 196.44 (1) of the statutes is renumbered 196.44 (1) (a).

22 SECTION 40. 196.44 (1) (b) of the statutes is created to read:

23 196.44 (1) (b) The commission may take administrative action and institute
 24 and prosecute all necessary actions or proceedings for the enforcement of all laws
 25 relating to telecommunications providers and for the punishment of all violations.

under this
subsection

INSECT
24-14

BILL

1 **SECTION 41.** 196.499 (1) (b) of the statutes is amended to read:

2 196.499 (1) (b) A telecommunications carrier shall be treated under ss. 196.02
3 (13), 196.196 (5) (f) 4., 196.209, 196.218 (8) and 196.219 as a telecommunications
4 provider.

5 **SECTION 42.** 196.499 (12) (am) of the statutes is created to read:

6 196.499 (12) (am) The commission may take administrative action and
7 institute and prosecute all necessary actions or proceedings for the enforcement of
8 all laws relating to telecommunications carriers and for the punishment of all
9 violations.

10 **SECTION 43.** 196.50 (4) (title) of the statutes is amended to read:

11 196.50 (4) (title) ~~MUNICIPALITY~~ LOCAL GOVERNMENTAL UNITS AND MUNICIPALITIES
12 RESTRAINED.

13 **SECTION 44.** 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and
14 amended to read:

15 196.50 (4) (b) No municipality may construct any public utility if there is in
16 operation under an indeterminate permit in the municipality a public utility
17 engaged in similar service ~~other than a telecommunications service~~, unless it secures
18 from the commission a declaration, after a public hearing of all parties interested,
19 that public convenience and necessity require the municipal public utility and unless
20 the requirements of par. (c) are satisfied.

21 **SECTION 45.** 196.50 (4) (a) of the statutes is created to read:

22 196.50 (4) (a) In this subsection:

23 ~~1. "Commencement of construction" has the meaning given in s. 196.491 (1) (b).~~

24 1, 2. "Local governmental unit" means a town, village, city, county, or special
25 purpose district, a subunit of a town, village, city, county, or special purpose district,

BILL

INSERT 26-2

1 or any combination of a town, village, city, county, special purpose district, or such
2 a subunit.

3 3. "Telecommunications facility" means any plant or equipment used to provide
4 a telecommunications service to the public by wire, fiber optics, radio signal, or other
5 means.

6 SECTION 46. 196.50 (4) (c) of the statutes is created to read:

7 196.50 (4) (c) 1. Except as provided in subd. 2., a local governmental unit may
8 not construct or own a telecommunications facility, unless all of the following are
9 satisfied:

10 a. The local governmental unit leases ^{on a nondiscriminatory basis} the telecommunications facility to a
11 telecommunications provider that is not owned or controlled by any local
12 governmental unit.

13 b. Before beginning construction or taking ownership of the
14 telecommunications facility, whichever occurs first, the local governmental unit
15 submits to the commission a financing plan and budget for constructing or owning
16 the telecommunications facility. The information submitted under this subd. 1. b.
17 shall be open to public inspection.

18 c. The lease specified in subd. 1. a. is approved at a referendum pursuant to this
19 subdivision. The governing body of each town, village, city, county, or special purpose
20 district that comprises the local governmental unit or that has a subunit that
21 comprises the local governmental unit may adopt a resolution calling for a
22 referendum under this subdivision on whether that local governmental entity or
23 subunit should construct or purchase a telecommunications facility and enter into
24 a lease specified in subd. 1. a. The referendum shall be held at the next succeeding
25 spring election or general election to be held not earlier than 42 days after the

BILL

INSERT 22-9

1 adoption of the resolution. The referendum question shall be substantially as
2 follows: "Shall the [name of town, village, city, county, special purpose district, or
3 subunit] [construct or purchase] a telecommunications facility for the purpose of
4 leasing that facility to a private telecommunications provider?" If a majority of the
5 electors of each town, village, city, county, or special purpose district that comprises
6 the local governmental unit or that has a subunit that comprises the local
7 governmental unit who vote in the referendum vote "Yes," the local governmental
8 unit may enter into the lease specified in subd. 1. a., provided the local governmental
9 unit complies with subd. 1. b.

10 2. ^{a.} Subdivision 1. does not apply to a telecommunications facility that is owned,
11 or ~~on which construction has commenced~~ before the effective date of this subdivision
12 ... [revisor inserts date] ^{until} 5 years after the effective date of this subdivision...
13 [revisor inserts date].
14

INSERT 27-11

This subdivision paragraph does not apply

INSERT
27-13

Paragraph

SECTION 47. 196.66 (1) of the statutes is amended to read:

15 196.66 (1) GENERAL FORFEITURE; FAILURE TO OBEY. If any public utility or
16 telecommunications provider violates this chapter or ch. 197 or fails or refuses to
17 perform any duty enjoined upon it for which a penalty has not been provided, or fails,
18 neglects, or refuses to obey any lawful requirement or order of the commission or the
19 governing body of a municipality or a sanitary commission or any judgment or decree
20 of any court upon its application, for every violation, failure, or refusal the public
21 utility shall forfeit not less than \$25 nor more than \$5,000. The commission may
22 impose a forfeiture against a telecommunications provider under this section by
23 administrative action.

24 SECTION 48. 196.66 (3) (b) (intro.) of the statutes is amended to read:

BILL

1 196.66 (3) (b) (intro.) ~~A~~ The commission or a court imposing a forfeiture on a
2 public utility or telecommunications provider or an agent, director, officer, or
3 employee of a public utility or telecommunications provider under this chapter shall
4 consider all of the following in determining the amount of the forfeiture:

5 **SECTION 49.** 198.12 (6) of the statutes is amended to read:

6 198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF
7 SERVICE; USE OF STREETS. The district shall have power and authority to own, acquire
8 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to
9 construct any utility or portion thereof to operate, in whole or in part, in the district,
10 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where
11 applicable, to construct any addition to or extension of any such utility, and to own,
12 acquire and construct any water power and hydroelectric power plant, within or
13 without the district, to be operated in connection with any such utility, and to
14 operate, maintain and conduct such utility and water power and hydroelectric power
15 plant and system both within and without the district, and to furnish, deliver and
16 sell to the public and to any municipality and to the state and any state institution
17 heat, light and power service and any other service, commodity or facility which may
18 be produced or furnished thereby, and to charge and collect rates, tolls and charges
19 for the same. For said purposes the district is granted and shall have and exercise
20 the right freely to use and occupy any public highway, street, way or place reasonably
21 necessary to be used or occupied for the maintenance and operation of such utility
22 or any part thereof, subject, however, to such local police regulations as may be
23 imposed by any ordinance adopted by the governing body of the municipality in
24 which such highway, street, way or place is located.

25 **SECTION 50.** 198.22 (6) of the statutes is amended to read:

BILL

1 198.22 (6) ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF
2 STREETS. The district shall have power and authority to own, acquire, and, subject
3 to the restrictions applying to a municipality under s. 196.50 (4) (b), to construct any
4 water utility or portion thereof, to operate, in whole or in part, in the district and to
5 construct any addition or extension to any such utility. For such purpose the district
6 is granted and shall have and exercise the right freely to use and occupy any public
7 highway, street, way or place reasonably necessary to be used or occupied for the
8 construction, operation or maintenance of such utility or any part thereof, subject,
9 however, to the obligation of the district to replace said grounds in the same condition
10 as they previously were in.

11 **SECTION 51.** 227.01 (13) (cm) of the statutes is created to read:

12 227.01 (13) (cm) Is an order under s. 196.219 (1) (c), (3m) (b) or (c), or (3s).

13 **SECTION 52. Nonstatutory provisions.**

14 (1) WIRELESS 911 SURCHARGE RULES.

15 (a) *Definition.* In this subsection, “board” means the wireless 911 board.

16 (b) *Board rules.* If all of the members of the board are appointed and qualified
17 on July 1, 2002, the board shall, using the procedure under section 227.24 of the
18 statutes, promulgate the rules under section 146.70 (3m) (d) 3. of the statutes, as
19 created by this act, for the period before permanent rules become effective, but not
20 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.
21 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not
22 required to provide evidence that promulgating a rule under this paragraph as an
23 emergency rule is necessary for the preservation of the public peace, health, safety,
24 or welfare and is not required to provide a finding of emergency for a rule
25 promulgated under this paragraph.

BILL

SECTION 52

Public Service Commission

1 (c) ~~Department of Commerce~~ rules. Notwithstanding section 146.70 (3m) (d) 3.
 2 of the statutes, as created by this act, if all of the members of the board are not
 3 appointed and qualified on July 1, 2002, the ~~Department of Commerce~~ *Public Service Commission* shall, using the
 4 procedure under section 227.24 of the statutes, promulgate the rules under section
 5 146.70 (3m) (d) 3. of the statutes, as created by this act, for the period before
 6 permanent rules become effective, but not to exceed the period authorized under
 7 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
 8 (2) (b), and (3) of the statutes, the ~~Department~~ *Commission* is not required to provide evidence that
 9 promulgating a rule under this paragraph as an emergency rule is necessary for the
 10 preservation of the public peace, health, safety, or welfare and is not required to
 11 provide a finding of emergency for a rule promulgated under this paragraph.

12 (2) INITIAL MEMBERS OF WIRELESS 911 BOARD. Notwithstanding section ~~15.155 (5)~~ *15.795 (2)*
 13 (b) of the statutes, as created by this act, the initial members of the wireless 911 board
 14 under section ~~15.155 (5)~~ *15.795 (2)* (a) 5. and 6. of the statutes, as created by this act, shall be
 15 appointed to serve the following terms:

16 (a) One member appointed under section ~~15.155 (5)~~ *15.795 (2)* (a) 5. of the statutes, as
 17 created by this act, and one member appointed under section ~~15.155 (5)~~ *15.795 (2)* (a) 6. of the
 18 statutes, as created by this act, for terms expiring on May 1, 2004.

19 (b) One member appointed under section ~~15.155 (5)~~ *15.795 (2)* (a) 5. of the statutes, as
 20 created by this act, and one member appointed under section ~~15.155 (5)~~ *15.795 (2)* (a) 6. of the
 21 statutes, as created by this act, for terms expiring on May 1, 2005.

22 (c) One member appointed under section ~~15.155 (5)~~ *15.795 (2)* (a) 5. of the statutes, as
 23 created by this act, and one member appointed under section ~~15.155 (5)~~ *15.795 (2)* (a) 6. of the
 24 statutes, as created by this act, for terms expiring on May 1, 2006.

BILL

15.795(2)

1 (d) One member appointed under section ~~15.155(5)~~ (a) 5. of the statutes, as
2 created by this act, and one member appointed under section ~~15.155(5)~~ (a) 6. of the
3 statutes, as created by this act, for terms expiring on May 1, 2007.

4 (3) POSITION AUTHORIZATION. There is authorized for the wireless 911 board 1.0
5 FTE PR position, to be funded from the appropriation under section ~~20.118(3)~~ ^{20.155} (3) ~~(4)~~ ✓
6 of the statutes, as created by this act, for the purpose of providing administrative
7 services to the wireless 911 board.

8 **SECTION 53. Initial applicability.**

9 (1) TELECOMMUNICATIONS SERVICE. The treatment of section 100.207 (3g), (3m),
10 and (5g) of the statutes first applies to contracts entered into, extended, modified, or
11 renewed on the effective date of this subsection.

12 (2) ENFORCEMENT AUTHORITY; PUBLIC SERVICE COMMISSION.

13 (a) The treatment of sections 196.219 (4) (b) and (6), 196.499 (12) (am), and
14 196.66 (1) and (3) (b) (intro.) of the statutes first applies to violations occurring on
15 the effective date of this paragraph.

16 (b) The treatment of section 196.37 (2) of the statutes first applies to orders
17 made on the effective date of this paragraph

18 (c) The treatment of section 196.196 (6) of the statutes first applies to
19 inadequate service provided or insufficient investment made on the effective date of
20 this paragraph.

21 (END)

INSERT
31-7

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4955/2ins
MDK:.....

telecommunications utility

1
2
3
4
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11

INSERT 5-2.04:

Noted

In addition, the PSC may directly impose such a forfeiture against a price-regulated with more than 500,000 access lines.

INSERT 5-2.30:

Noted

Also, under certain circumstances, the bill allows the PSC to promulgate additional requirements that must be satisfied.

INSERT 6-2.31:

Noted

In addition, the bill's prohibition does not apply to certain telecommunications facilities that are leased to other state and local governmental entities for the purpose of sharing facilities or intergovernmental cooperation.

INSERT 7-2.06:

6. The bill requires a 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.

7. The bill requires that the rates at which, and the terms and conditions on which, a 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.

8. The bill requires a 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 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.

INSERT 8-5:

X

SECTION 1. 20.155 (3) (title) of the statutes is created to read:

20.155 (3) (title) WIRELESS 911 BOARD.

INSERT 16-25:

X

SECTION 2. 196.196 (3) (a) of the statutes is amended to read:

196.196 (3) (a) Except to the extent expressly permitted by this section and ss.

196.19 (1m), 196.194, 196.195, 196.1995, 196.20 (1m), 196.204, 196.209 and 196.219,

1 the commission may not have jurisdiction over the prices or terms and conditions for
2 the offering of any other services, including new telecommunications services,
3 offered by a price-regulated telecommunications utility.

4 History: 1993 a. 496; 1999 a. 29, 85; 2001 a. 16.

INSERT 17-17:

5 on a price-regulated telecommunications utility with more than 500,000 access lines
6 in use in this state if the commission determines during its annual review of rate
7 increases under sub. (1) (c) that the utility has provided inadequate service or made
8 insufficient investment

INSERT 17-18:

9
10 *Editor* See material from LRB-4912/1, which is attached.

INSERT 18-13:

11 means all services and facilities provided by a telecommunications provider to
12 another telecommunications provider, including

INSERT 19-16:

13
14
15 **SECTION 3.** 196.219 (3) (intro.) of the statutes is amended to read:

16 196.219 (3) PROHIBITED PRACTICES. (intro.) A telecommunications utility with
17 respect to its regulated services, including wholesale services, or any other
18 telecommunications provider with respect to its offering of local exchange services
19 may not do any of the following:

20 History: 1993 a. 496; 1997 a. 218; 2001 a. 16.

INSERT 20-15:

21 after notice and reasonable opportunity to be heard,

INSERT 20-18:

22
23 concerning service quality that is received by a telecommunications provider within
24 30 days after the resolution of an initial trouble report on the same access line.

1 **INSERT 24-14:**

2 The commission's authority under this subsection includes the authority to require

3 a

4 **INSERT 26-2:**

5 2. "State agency" means any office, department, independent agency,
6 institution of higher education, association, society, or other body in state
7 government created or authorized to be created by the constitution or any law,
8 including the legislature and courts.

9 **INSERT 27-9:**

10 d. Any other requirement established in rules promulgated by the commission
11 under subd. 3.

12 **INSERT 27-11:**

13 for which a financial institution has agreed in writing to finance, in whole or in part,
14 the cost of construction or ownership,

15 **INSERT 27-13:**

16 b. Subdivision 1. does not apply to a telecommunications facility leased to a
17 local government unit, state agency, school district, cooperative educational service
18 agency, technical college district, public library board, public library system,
19 federally recognized Indian tribe or band located in this state, or volunteer fire
20 company or fire department organized under ch. 213, if the lease is under a contract
21 or agreement under s. 66.0301, 66.0303, or 120.25, or a similar contract or agreement
22 for the sharing of facilities.

23 3. If the commission determines that the requirements under subd. 1. a., b., and
24 c. do not adequately protect the public interest from any unfair competitive
25 advantage that a local governmental unit may gain from its status as a local

1 governmental unit, the commission may promulgate rules establishing additional
2 requirements that a local governmental unit must satisfy before constructing or
3 owning a telecommunications facility, including any of the following:

4 a. That the cost of owning or constructing the telecommunications facility must
5 be funded only from revenues generated from leasing the facility under subd. 1. a.

6 b. That construction and operation of the telecommunications facility must be
7 subject to the same requirements, fees, and penalties relating to the use of public
8 rights-of-way that apply to a telecommunications facility that is not owned or
9 controlled by a local unit of government.

10 c. That the local unit of government must comply with any other requirement
11 that the commission determines is necessary to protect the public interest.

12 **INSERT 31-7:**

13 (4) LEGISLATIVE INTENT. The treatment of sections 196.219 (3m) and (3s) and
14 196.37 (1) and (2) of the statutes ~~by this act~~ is intended only to clarify the authority
15 of the public service commission. No substantive change is intended.

BILL

Under current law, a person is subject to a fine or imprisonment if the person violates certain laws relating to the manufacture, distribution, and sale of commercial feed, laws relating to the safety of certain consumer products, and laws constituting the federal Hazardous Substances Act. This bill provides that a person who violates any of these laws may also be subject to a forfeiture. The bill also establishes a forfeiture for violations of the trade regulation laws administered by DATCP for which there is no specific forfeiture under current law.

Unauthorized credit card charges

This bill also prohibits a seller from using a person's credit card or debit card number to obligate that card holder to pay for the purchase of property or services unless the card holder gives his or her affirmative consent. The bill requires DATCP to promulgate rules defining the term "affirmative consent."

The bill authorizes DATCP to bring suit to enforce these provisions and establishes penalty provisions for violating these provisions. The bill also authorizes a person who is damaged as a result of a violation of these provisions to bring suit to recover twice the amount of those damages or \$500 for each violation, whichever is greater.

For further information see the *state and local* 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.** 20.115 (1) (jg) of the statutes is created to read:

2 20.115 (1) (jg) *Business opportunity plan regulation.* All moneys received from
3 the fees collected under s. 100.298 (2) (c) for the regulation of business opportunity
4 enterprises under s. 100.298.

5 **SECTION 2.** 93.01 (1r) of the statutes is created to read:

6 93.01 (1r) "Civil investigative demand" means a written document prepared
7 by the department that is related to the enforcement of chs. 93 to 100 and that orders
8 a person to do any of the following:

9 (a) Provide originals or copies of documents, records, or reports in the person's
10 custody.

11 (b) Answer specific questions submitted by the department in the form of
12 written depositions, interrogatories, or requests for admissions.

INS
9-3

BILL

1 NS
9-3

1 (c) Allow employees of the department to review and copy documents, records,
2 or reports in the person's custody.

3 SECTION 3. 93.14 (1m) of the statutes is created to read:

4 93.14 (1m) (a) Any person who has been served with a department complaint,
5 notice, order, or other process as authorized in s. 93.18 (5) shall be subject to the
6 department's authority and jurisdiction, as limited by par. (b).

7 (b) The department's jurisdiction may not exceed the jurisdiction granted to
8 courts under s. 815.05.

9 SECTION 4. 93.14 (3) of the statutes is amended to read:

10 93.14 (3) Any person who shall unlawfully fail to attend as a witness, fail to
11 comply with a subpoena, order, or civil investigative demand, or refuse to testify may
12 be coerced as provided in s. 885.12.

13 SECTION 5. 93.15 (1) of the statutes is amended to read:

14 93.15 (1) The department may, by general or special order, require persons
15 engaged in business to file with the department, at such time and in such manner
16 as the department may direct, sworn or unsworn reports or sworn or unsworn
17 answers in writing to specific questions, as to any matter which the department may
18 investigate.

LPS: ignore red
2001 for
marks.

19 SECTION 6. 93.15 (2) of the statutes is amended to read:

20 93.15 (2) The department or any of its authorized agents may have access to
21 and may copy any document, or any part thereof ^{of a document, that} which is in the possession or under
22 the control of any person engaged in business, if such ^{the} document, or such ^{the} part thereof
23 is relevant to any matter ^{that} which the department may investigate.

of the
document

(end)

24 SECTION 7. ~~94.72 (14) (a) of the statutes is amended to read:~~

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4955/2insMG
MDK/MCC/RNK;jld&cmh:ch&rs

Insert 9-19

SECTION 1. 100.207 (1) (c) of the statutes is created to read:

100.207 (1) (c) "Telecommunications subscription" means a contract between a telecommunications provider and a customer for a telecommunications service that is always provided to the customer during each billing period.

Insert 10-24

(b) Paragraph (a) does not apply to a telecommunications service that is provided as part of a telecommunications subscription.

SENATE BILL 451

SECTION 27

INSERT 17-18;

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 ~~GENERALLY~~ 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.

SENATE BILL 451

INSERT 17-18 (cont'd):

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 ~~(b) 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.

SENATE BILL 451

INSERT 17-18.
(cont'd)

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.

END of INSERT 17-18

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

Date

MGG: hml

D-Note

and (5m)

In sections ^{s.} 100.207 ~~(3)~~ (3g), and (3m), the term

"person" has been changed to "customer" so for

consistency internal consistency and for consistency

with ~~s. 100.207~~ s. 100.207 (3) and (4)(b), 1999 Stats.

MGG

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4955/2dn
MCC:hmh:rs

February 26, 2002

In s. 100.207 (3g), (3m) and (5m), the term "person" has been changed to "customer" for internal consistency and for consistency with s. 100.207 (3) and (4) (b), 1999 stats.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

Emery, Lynn

From: Montgomery, Phil
Sent: Tuesday, February 26, 2002 7:23 PM
To: LRB.Legal
Subject: Draft review: LRB-4955/2 Topic: Assembly task force on telecommunications

It has been requested by <Montgomery, Phil> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-4955/2 Topic: Assembly task force on telecommunications

Kunkel, Mark

From: Stolzenberg, John
Sent: Wednesday, February 27, 2002 9:21 AM
To: Kunkel, Mark; Smyrski, Rose
Subject: RE: LRB 4599 Problems

Mark and Rose,

Mark, with respect to your question on item 5, by only amending s. 196.195 (5) to include s. 196.204 (5), it would be up to the PSC to act under s. 196.195 (7) and (12) (c) to impose the requirement that an ILEC (if subject to alt reg) could only lower its rates to the level of a competitor but not do predatory pricing. This condition would not be statutory.

Rose, with respect to your instruction on DATCP language, you appear to be removing the language on encryption (proposed s. 100.2065), but it is not clear if your reference to keeping the "restrictions on telecommunications providers in initiating services..." is the same as the "telecommunications service confirmation" provisions starting on page 12, line 14 in LRB-4955/2. Also, do your instructions on DATCP provisions remove or retain the related record keeping and enforcement provisions in SECs 9 to 13, 21 and 22 in LRB-4955/2?

John

-----Original Message-----

From: Kunkel, Mark
Sent: Wednesday, February 27, 2002 8:25 AM
To: Smyrski, Rose
Cc: Stolzenberg, John
Subject: RE: LRB 4599 Problems

Rose:

Items 1, 2, and 3 look easy, but a little more guidance on what the Leg. Council must study would be appreciated. Can you describe the types of issues that Leg. Council must study? (Maybe John has some suggestions?)

Item 4 (b): so, you want to allow the board to make grants to wireline providers? Recall that, after subtracting 2.5% from available funds, the board is directed under the draft to make 50% of the grants to public agencies, and 50% to wireless providers (subject to the transfer mechanism). How do you want to insert the wireline grants? Do they compete with wireless for the 50%? Also, a wireless provider may get a grant only for actual expenses incurred by wireless providers to upgrade, purchase, lease, program, install, test, operate, or maintain all data, hardware, and software necessary to comply with the FCC's wireless orders. Are there similar restrictions that should apply to a wireline provider? They aren't required to comply with the FCC wireless orders, are they?

One final question regarding item 4(b): is it okay to restrict the grants to telecom. utilities? Or should other types of telecom. providers be allowed to get grants?

Items 4 (c): does your message mean that the access rate provisions are okay as drafted?

Item 5: it looks like the only change you need is to amend s. 196.195 (5), as indicated. (John, do you agree?)

Finally, I'm assuming you don't need any changes regarding the other items that I haven't mentioned.

-- Mark

-----Original Message-----

From: Smyrski, Rose
Sent: Wednesday, February 27, 2002 1:03 AM
To: Kunkel, Mark

Subject: LRB 4599 Problems
Importance: High

Mark,

I apologize for this...LRB 4599 was jacketed prematurely--my boss jacketed the document before I even saw it.....please forgive me.

We need to re-jacket this bill and Rep Montgomery requests that we make the following changes to the draft:

1. **Remove** the language that relates to retail and wholesale service standards.
2. **Remove** the language that relates to PSC enforcement authority.
3. **In place of these references** we would like to request a Legislative Council Study to examine the issues of wholesale and retail service quality.
4. **We will keep the following areas**
 - a. Local government construction and ownership of telecommunications facilities.
 - b. 911 wireless emergency telephone service.
**We would like an addition --Language in there that allows a wireline provider to recover costs that it incures in the providing of wireless 911.
 - c. Access Rate review as it pertains to the benchmarks--Allow the PSC to order rates, tolls, and charges of certain telecommunication utilities who access rates exceed the benchmark levels specified in PSC order.
- oltas as is
 - d. all the proposed DATCP language
 1. "Restrictions on telecommunications providers in initiating service and restrictions on contracts"
 2. "Restrictions on telecommunications providers in billing other services"
 - e. Biennial Report language regarding the status of investments in advanced telecommunications infrastructure.

Additional language to add to the proposal--

5. We would like to add langage that would give the Commission clearer authority to waive requirements associated with the TSLRIC floor-It will allow the ILECs to lower their rates to the level of a competitor but doesn't allow them (ILEC) to do any predatory pricing. *Except 196.204(5) to match*

Add reference to ss 196.204(5) to the list of statutes that the Commission can suspend in a partial deregulation order under 196.195(5).

Possible language

If after the proceeding under subs. (2), (3) and (4) the commission has determined that effective competition exists in the market for the telecommunications servcies which justifies a lesser degree of regulation and that lesser regulation in that market will serve the public interest, the commission may, by order, suspend any of the following provisions of law, except as provided under (7) and (8) chapter 201 196.02 (2);196.06;196.07;196.09;196.10;196.10;196.12;196.13(2); 196.19, tariffing requirements under 196.194;196. (1) or (5);196.20;196.204(5) and (7);196.21;196.22;196.26;196.28;196.37;196.49;196.52;196.58;196.60;196.604;196.77;196.78;196.79;196.80

also delete access fees