

## Barman, Mike

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**From:** Kunkel, Mark  
**Sent:** Tuesday, April 12, 2011 7:42 PM  
**To:** Barman, Mike  
**Cc:** Hanaman, Cathlene  
**Subject:** Drafting file transfer

Mike,

Can you take the contents of LRB-1625 and move (not copy) them to LRB-1901? The files are for the same requester, but I need to do a new preliminary draft, and I've already produced LRB-1625/2, so I can't take LRB-1625 back to the prelim. stage.

Does this make sense? If not, please let me know.

-- Mark

# "RESEARCH APPENDIX"

... Drafting History Reproduction Request Form ...

 DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN

(Request Made By: MDK) (Date: 04 / 12 / 2011)

## Note:

**BOTH DRAFTS SHOULD HAVE THE SAME "REQUESTOR"**

*(exception: companion bills)*



 Please transfer the drafting file for  
**2009 LRB** \_\_\_\_\_ (For: Rep. / Sen. \_\_\_\_\_)  
to the drafting file for  
**2011 LRB** \_\_\_\_\_ (For: Rep. / Sen. \_\_\_\_\_)

-----OR-----

 Please <sup>transfer</sup> copy the drafting file for  
**2011 LRB** -1625 / \_\_\_\_\_ (include the version) (For:  Rep. / Sen. Honadel)  
and place it in the drafting file for  
**2011 LRB** -1901 (For:  Rep. / Sen. Honadel)

 Are These "Companion Bills" ?? ... Yes  No

If yes, who in the initial requestor's office authorized the copy/transfer of the drafting history ("guts") from the original file: \_\_\_\_\_



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1625/2  
MDK:wjhrs

O-NOTE

Keep → jld

2011 BILL

-1901/PI

PM NOT  
PMN

due TODAY  
Format 4-14  
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Gen cat

4

1 AN ACT *to repeal* 196.09 (9), 196.19 (1m), 196.19 (5), 196.194 (title), 196.194 (1),  
2 196.195, 196.196, 196.198 (2) (b), 196.20 (1m), 196.20 (2) (am), 196.20 (2r),  
3 196.20 (3), 196.20 (5), 196.20 (6), 196.203 (3) (b), 196.203 (3) (c), 196.203 (3) (d),  
4 196.203 (3) (dm), 196.203 (3) (e), 196.203 (4), 196.204 (1), 196.204 (2), 196.204  
5 (3), 196.204 (4), 196.204 (5) (b), 196.204 (6), 196.205, 196.213, 196.215, 196.219  
6 (2m), 196.219 (3) (h), 196.26 (4), 196.49 (1) (ag), 196.49 (3) (d), 196.50 (1) (b) 1.  
7 and 2., 196.50 (2) (g) 3., 196.50 (2) (h), 196.52 (5) (b), 196.60 (2), 196.77, 196.79  
8 (2), 196.805 and 201.15; *to renumber* 196.50 (1) (b) 3. and 196.52 (5) (a); *to*  
9 *renumber and amend* 196.04 (1) (a) 1., 196.194 (2), 196.198 (2) (a), 196.203  
10 (1), 196.203 (2), 196.203 (3) (a), 196.204 (5) (ag), 196.204 (5) (ar), 196.79 (1) and  
11 196.975 (1); *to amend* 93.01 (1m), 133.07 (2), 196.01 (9m), 196.02 (2), 196.04  
12 (1) (b) 1., 196.04 (2), 196.09 (1), 196.13 (2), 196.198 (3) (intro.), 196.198 (3) (a),  
13 196.198 (3) (b) (intro.), 196.20 (1), 196.20 (2) (a) (intro.), 196.20 (2m), 196.202  
14 (2), 196.203 (5), 196.218 (3) (a) 3m., 196.218 (3) (f), 196.218 (5r) (a) 4., 196.219

**BILL**interconnected  
voice over ✓

1 (1) (b), 196.219 (2) (a), 196.26 (1) (a), 196.28 (4), 196.31 (1m), 196.37 (3), 196.37  
 2 (4), 196.49 (3) (b) (intro.), 196.50 (title), 196.50 (2) (a), 196.50 (2) (b), 196.50 (2)  
 3 (e) 1., 196.50 (2) (f), 196.52 (3) (b) 1., 196.52 (3) (c) (intro.), 196.52 (6), 196.52 (9)  
 4 (e), 196.60 (1) (a), 196.604 and 196.975 (2); **to repeal and recreate** 196.204  
 5 (title) and 196.218 (4); and **to create** 182.017 (1g) (cq), 196.01 (1d) (g), 196.01  
 6 (2s), 196.01 (3a), 196.01 (3f), 196.01 (3s), 196.01 (8d), 196.01 (8e), 196.01 (12w),  
 7 196.016, 196.04 (1) (a) 3., 196.191, 196.203 (1d), 196.203 (2) (b), 196.203 (2) (c),  
 8 196.203 (2) (d), 196.203 (4m), 196.206, 196.212, 196.218 (1) (a), 196.219 (2r),  
 9 196.50 (2) (i), 196.50 (2) (j), 196.50 (2) (k), 196.503 and 196.975 (1g) of the  
 10 statutes; **relating to:** regulation of telecommunications utilities and  
 11 alternative telecommunications utilities; telecommunications provider of  
 12 last-resort obligations; telecommunications intrastate switched access rates;  
 13 Internet protocol ~~enabled~~ service; and use of transmission equipment and  
 14 property by video service providers.

***Analysis by the Legislative Reference Bureau***

~~The bill does all of the following: 1) makes changes to the authority of the Public Service Commission (PSC) over telecommunications utilities; 2) imposes requirements on switched access rates; 3) creates requirements for telecommunications utility tariffs; 4) specifies the PSC's authority over Internet protocol-enabled (IP-enabled) service; 5) makes changes to the PSC's authority for ensuring universal access to telecommunications service; 6) imposes requirements regarding the availability of basic voice service; 9) makes changes to requirements for the use of another person's transmission equipment and property by public utilities and telecommunications providers; and 10) makes other changes to telecommunications regulation.~~

**TELECOMMUNICATIONS UTILITY REGULATION**

~~Under current law, with certain exceptions, the PSC regulates a telecommunications provider that provides basic local exchange service as either a telecommunications utility (TU) or an alternative telecommunications utility (ATU). In general, the PSC has certified as TUs those telecommunications providers that are incumbent local exchange carriers (ILECs) under federal law, which are~~

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telecommunications providers that resulted from the breakup of the Bell System pursuant to a federal antitrust action. In general, the PSC has certified as ATUs those telecommunications providers that are competitive local exchange carriers (CLECs) under federal law, which are telecommunications providers that compete with ILECs to provide basic local exchange service.

Under current law, TUs are subject to varying degrees of regulation by the PSC, depending on certain factors, such as whether the TU has elected price regulation, under which the PSC regulates the rates charged by a TU, but not the TU's rate of return. The degree of PSC regulation also depends on whether a TU is a cooperative association, or whether the TU is a "small TU," which is a TU that had fewer than 50,000 access lines in this state on January 1, 1984. With certain exceptions, current law exempts an ATU from PSC regulation, except that, if certain conditions are satisfied, the PSC may impose on an ATU a requirement that otherwise applies to a TU or other public utility. In addition, ATUs, like certain other persons who provide active retail voice communications service, must collect from customers and remit to the PSC a monthly police and fire protection fee that is used for shared revenue payments.

**ATUs.** The bill limits the requirements the PSC may impose on an ATU. Under the bill, the PSC may impose requirements that relate only to the following: 1) submission of stockholder and other business management information; 2) PSC examination of accounting and other business records; 3) use of and connection to transmission equipment and property by other telecommunications providers; 4) confidential treatment of records by the PSC; 5) rates and costs of unbundled network elements; 6) interconnection agreements and other interconnection requirements; 7) telephone caller identification, pay-per-call, and toll-free services; 8) PSC privacy rules; 9) universal service and contributions to the state's universal service fund; 10) access to telecommunications emergency services; 11) restrictions on resale or sharing certain services, products, and facilities; 12) violations of rules of the Department of Agriculture, Trade and Consumer Protection (DATCP) regarding advertising and sales and collection practices; 13) transfer of local exchange customers to other telecommunications providers; 14) PSC questionnaires and other information requests; 15) PSC hearings on consumer complaints; 16) changes to PSC orders and reopening PSC cases; 17) PSC-required tests; 18) conditional, emergency, and supplemental PSC orders; 19) timing of effect of PSC orders; 20) court review of PSC orders; 21) injunction procedures; 22) enforcement duties of the PSC, the attorney general, and district attorneys and related court venues; 23) penalties related to information and record requests; 24) forfeitures; 25) abandonment or discontinuance of lines, services, and rights-of-way; 26) assessments for reimbursement of PSC expenses; 27) assessments for telephone relay service; and 28) assessments for enforcement of certain consumer protection requirements by DATCP.

As under current law, the bill allows the PSC to impose a requirement if the PSC finds that the imposition is in the public interest. However, the bill eliminates certain of the factors the PSC may consider in making such a determination. The bill also provides that, if the PSC imposes a requirement on an ATU, the PSC must

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impose the same requirement at the same level of regulation on all other ATUs. In addition, the bill provides that, except for a local government ATU, certification as an ATU is on a statewide basis and that any ATU certification issued by the PSC before the bill's effective date is considered amended to be a statewide certification. In addition, with certain exceptions, the bill allows the PSC to deny certification as an ATU if the PSC finds that the applicant for certification does not have the financial, managerial, or technical capabilities to provide service or comply with requirements applicable to ATUs.

The bill also allows an ATU to require the PSC to grant recertification as an ATU. Upon recertification, the ATU is subject to the requirements for ATUs described above. However, the recertification terminates all regulatory requirements related to the prior certification that were previously imposed on the ATU by the PSC.

**TUs.** The bill exempts TUs from requirements relating to all of the following: 1) PSC classification of public utility service; 2) PSC valuation of utility property; 3) accounting requirements, including depreciation rates and new construction accounting; 4) reporting of expenses, profit, and other items; 5) PSC reports of utility property values and other financial data; 6) filing of rates and PSC approval of rates; 7) PSC investigations of rates and services; 8) construction, installation, or operation of new facilities; 9) PSC approval of certain contracts; 10) certain municipal authority to regulate public utilities; 11) dissolution and reorganization; and 12) issuance of securities. The bill makes changes to current law to ensure that small TUs, and TUs that are cooperatives, are subject to the foregoing exemptions. The bill also eliminates the PSC's authority to order an applicant for certification as a TU to satisfy any conditions the PSC considers necessary to protect the public interest. In addition, the bill repeals the requirements that apply to TUs under current law that apply to the following: 1) offering new telecommunications services or jointly offering services with other TUs; 2) classification of TU service; 3) promotional rates; 4) PSC authority regarding contracts between TUs and individual customers; and 5) consolidations and mergers. Also, the bill repeals price regulation of TUs and terminates any requirements imposed by the PSC on price-regulated TUs, as well as repeals the PSC's authority to impose partial deregulation and other types of alternative regulation on TUs.

The bill allows a TU to terminate its certification as a TU and requires the PSC to certify the TU as an ATU and issue an order terminating all regulatory requirements related to the TU certification, except as discussed below. Upon certification as an ATU, the formerly certified TU is subject to the same requirements as an ATU. In addition, the bill allows a TU to require the PSC to issue an order recertifying the TU as a TU, but regulating the TU like an ATU. Such a recertification terminates the TU's prior certification, and all regulatory requirements related to the prior certification, except as discussed below.

If the PSC issues an order certifying a TU as an ATU, or recertifying a TU as a TU that is regulated like an ATU, the order operates as a limited waiver of the TU's right to the following: 1) an exemption from interconnection requirements under federal law that apply to ILECs that are rural telephone companies; and 2)

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suspension or modification of certain interconnection requirements under federal law. The bill provides that, except for the foregoing limited waivers, the state's telecommunications law is not intended to reduce or expand the scope and application of federal telecommunications law, including the PSC's authority under federal law. The bill also provides that certification of a TU as an ATU, or recertification of a TU as a TU that is regulated like an ATU, does not terminate any PSC order regarding interconnection, unbundling, collocation, wholesale telecommunications service, or any obligation under federal interconnection law.

**SWITCHED ACCESS RATES**

In general, the bill imposes reductions on intrastate switched access rates that depend on whether a telecommunications provider is a "nonincumbent," which the bill defines as a telecommunications provider that is not an ILEC, or a "large ILEC," which the bill defines as an ILEC that, with any ILEC affiliates, had 150,000 or more access lines in this state as of January 1, 2010. The bill defines "switched access rates" as rates charged for providing switched access to a local exchange network for enabling the origination or termination of telecommunications service within the local exchange. In general, federal law provides that the Federal Communications Commission regulates interstate rates and the states regulate intrastate rates.

Beginning on the bill's effective date, both nonincumbents and large ILECs may not increase their intrastate switched access rates or charge rates that are higher than the amounts charged on January 1, 2011. No later than one year after the bill's effective date, a nonincumbent must reduce its intrastate switched access by an amount equal to 50 percent of the difference between its intrastate and interstate switched access rates. For a large ILEC, the required reduction is 25 percent. No later than two years after the bill's effective date, a nonincumbent must further reduce its intrastate switched access rates by an amount equal to 50 percent of the difference between its intrastate and interstate switched access rates. For a large ILEC, the required reduction is 33 percent. No later than three years after the bill's effective date, a nonincumbent must reduce its intrastate switched access rates to mirror its interstate switched access rates and, beginning on that date, may not charge intrastate rates that are higher than its interstate rates. No later than that date, a large ILEC must reduce its intrastate switched access rates by an amount equal to 50 percent of the difference between its intrastate and interstate switched access rates. No later than four years after the bill's effective date, a large ILEC is subject to the same requirements that apply to a nonincumbent three years after the bill's effective date.

The bill also limits the PSC's authority over the intrastate switched access rates of a "small ILEC," which the bill defines as an ILEC that, with any ILEC affiliates, had fewer than 150,000 access lines in this state as of January 1, 2010. During the three-year period beginning on the bill's effective date, if a small ILEC does not increase its intrastate switched access rates, the PSC may not order a reduction in the small ILEC's intrastate switched access rates.

The bill provides that, except to enforce the above requirements, the PSC may not review or set intrastate switched access rates for nonincumbents or large ILECs. Also, if the PSC ordered a reduction in switched access service rates prior to the bill's

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effective date, and the reduction is not inconsistent with the above requirements, the bill provides that the reductions remain effective unless modified by the PSC in a subsequent order. The bill also imposes certain requirements under current law regarding reasonable and adequate service on the provision of switched access service by TUs with fewer than 150,000 access lines in this state on the bill's effective date. In addition, the bill allows the PSC to impose such requirements on ATUs.

The bill also prohibits the intrastate dedicated access service rates of certain TUs from exceeding their interstate rates for similar service. This prohibition applies to a TU with 150,000 or more access lines in this state as of the bill's effective date. The bill also prohibits such a TU from assessing an intrastate carrier common line charge or a substitute charge.

**TARIFFS**

The bill allows, but does not require, a TU or an ATU to do any of the following: 1) retain on file with PSC tariffs showing the service rates, tolls, and charges the TU or ATU has established; 2) withdraw or change the rates, terms, or conditions of a tariff filed with the PSC; or 3) file new tariffs with the PSC. If a TU or an ATU withdraws a tariff for intrastate switched access services, the bill prohibits the TU or ATU from increasing its intrastate switched access rates. Also, if a TU or an ATU files a new tariff, the tariff must include all terms and conditions that apply to services specified in the tariff, as well as the service rates. In addition, the new tariff is effective as specified in the tariff, unless the PSC, within ten days after the filing, suspends the new tariff. The PSC may modify the new tariff only to the extent permitted by the PSC's authority over the TU or ATU, and only after granting the TU or ATU an opportunity for a hearing. If the PSC fails to comply with deadlines in the bill regarding the new tariff, the new tariff is effective as filed.

The bill also provides that a proposed change in a tariff is effective as specified in the tariff, except for changes that constitute increases in intrastate switched access rates, which are not effective until approved by the PSC after an opportunity for hearing. Any such increase must comply with the requirements for switched access rates described above, and must be consistent with certain public interests specified under current law.

In addition, the bill allows a tariff for a service that permits a TU or an ATU to enter into an individual contract with an individual customer under rates, terms, or conditions that are different from those specified for the service in the tariff. Except for such an individual contract, the bill prohibits a TU or an ATU from receiving for a service more or less compensation than that specified for the service in the tariff, and prohibits a TU or an ATU from receiving compensation for a service that is not specified in a tariff that is filed or retained on file under the bill. Also, copies of tariffs filed under the bill must be made available to consumers in a form and place readily accessible to the public.

**IP-ENABLED SERVICE**

With certain exceptions, the bill provides that IP-enabled service is exempt from PSC regulation. The bill defines "IP-enabled service" as any service that uses Internet protocol, or a successor protocol, and that enables an end user to send or receive a voice, data, or video communication in Internet protocol format or a

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successor format. "IP-enabled service" is defined to include interconnected voice over Internet protocol (VOIP) service. Interconnected VOIP service has the same meaning as under federal law, which is a service requiring a broadband connection and Internet protocol-compatible customer premises equipment that allows the user to engage in real-time, two-way communication over the public switched telephone network.

One exception to the above exemption is that an entity that provides interconnected VOIP service must make contributions to the state's universal service fund. This results because, under current law, the PSC must, with certain exceptions, require persons who provide telecommunications service to contribute to the fund and interconnected VOIP service satisfies the definition of "telecommunications service," as affected by the bill. (The bill's treatment of the definition of "telecommunications service" is discussed below under the heading, "other changes.") Current law requires contributions to be based on revenues from telecommunications service, and the bill specifies the methods for calculating revenues from interconnected VOIP service. Under the other exceptions to the above exemption, a provider of interconnected VOIP service must impose a monthly police and fire protection fee on its customers that is required under current law, and must pay assessments for DATCP enforcement of certain consumer protection requirements.

**UNIVERSAL SERVICE**

Current law requires the PSC to promulgate rules that define a basic set of essential telecommunications services that must be available to all customers at affordable prices and that are a necessary component of universal service. Current law also requires the PSC to promulgate rules that define a set of advanced service capabilities that must be available to all areas of this state at affordable prices within a reasonable time and that are a necessary component of universal service. The essential services and advanced service capabilities must be based on market, social, economic development, and infrastructure development principles rather than on specific technologies or providers.

This bill repeals the foregoing requirements and requires instead that certain telecommunications providers must make available to their customers all essential telecommunications services. The bill defines "essential telecommunications services" as services or functionalities listed in a regulation by the Federal Communications Commission as of January 1, 2010. The bill's requirements apply to a telecommunications provider that is designated under federal law as a telecommunications carrier eligible to receive support from the federal universal service fund. Also, the bill provides that a telecommunications provider may provide essential telecommunications services itself or through an affiliate or through the use of any available technology or mode. In addition, the bill limits the requirements that the PSC may impose on a wireless telecommunications provider that receives support from the federal universal service fund, but not the state's universal service fund.

**BILL****BASIC VOICE SERVICE**

The bill requires an ILEC to make basic voice service available to all residential customers within the ILEC's local exchange area. "Basic voice service" is defined, in part, as two-way voice communication service within a local calling area. The bill allows an ILEC to provide basic voice service through an affiliate, or through the use of any available technology or mode.

The bill also allows an ILEC to apply to the PSC for a waiver from the foregoing requirements. The PSC must grant a waiver if the waiver is in the public interest or effective competition exists in the local exchange area. If the PSC fails to meet a 120-day deadline for the waiver request, the waiver request is considered granted by operation of law. In addition, the PSC must grant a waiver if the PSC previously found that effective competition existed. However, the PSC may not grant a waiver based on a previous finding of effective competition until after June 1, 2012, or the bill's effective date, whichever is later. If the PSC fails to meet a 20-day deadline for a waiver request based on a previous finding of effective competition, the waiver request is considered granted by operation of law. The bill also provides that decisions of the PSC prior to the effective date of the bill that eliminate an ILEC's provider of last-resort obligations remain in force and effect. Finally, the bill provides that none of the bill's basic voice service requirements apply after April 30, 2013.

**USE OF TRANSMISSION EQUIPMENT AND PROPERTY**

Current law requires any person who owns transmission equipment and property to permit, for reasonable compensation, a public utility or telecommunications provider to use the equipment and property, if certain requirements are satisfied. Current law defines "transmission equipment and property" to include any conduit, subway, pole, tower, transmission wire, or other equipment, that is on, over, or under any street or highway. The PSC is authorized to resolve disputes regarding such uses of transmission equipment and property, and may prescribe reasonable conditions and compensation for such uses.

This bill defines "transmission equipment and property" so that it also includes cables and any equipment and property that is on, over, or under any right-of-way owned or controlled by a county, city, village, or town or public utility owned or operated by any county, city, village, or town. In addition, the bill allows a person granted a video service or cable television franchise, in addition to a public utility or telecommunications provider, to use transmission equipment or property under the foregoing conditions. Also, the bill specifies that pole attachments constitute transmission equipment and property that are subject to the foregoing requirements.

**OTHER CHANGES**

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

1. The bill eliminates the conveyance of data or other information from the definition of "telecommunications service" for purposes of the statutes administered by the PSC. As a result, the definition is limited to the conveyance of voice

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communication, except that the bill also specifies that the definition includes switched access service.

2. Under current law, a company that provides telecommunications service may, subject to municipal regulation and PSC review, maintain lines within public rights-of-way. Current law does not define "telecommunications service" for this purpose. The bill defines "telecommunications service" for this purpose to include the conveyance of voice communication, data, or other information.

3. The bill eliminates a requirement under current law for TUs and other telecommunications providers to provide, with certain exceptions, access services under tariffs under the same rates, terms, and conditions to all telecommunications providers.

4. The bill eliminates a prohibition under current law against TUs and other telecommunications providers from giving certain preferences to their consumer retail departments or affiliates.

5. The bill imposes certain requirements under current law regarding reasonable and adequate service on a TU's provision of "wholesale telecommunications service," as defined in the bill. In addition, the bill allows the PSC to impose such requirements on ATUs.

6. The bill excludes revenues from wholesale services, including wholesale telecommunications service, from the revenues on which contributions to the state's universal service fund are calculated.

7. The bill eliminates certain requirements under current law that apply to certain TUs regarding issuance of securities, capital structure, and payment of dividends.

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.** 93.01 (1m) of the statutes is amended to read:
- 2        93.01 (1m) "Business" includes any business, except that of banks, savings
- 3        banks, credit unions, savings and loan associations, and insurance companies.
- 4        "Business" includes public utilities and telecommunications carriers to the extent
- 5        that their activities, beyond registration, notice, and reporting activities, are not
- 6        regulated by the public service commission and includes public utility and
- 7        telecommunications carrier methods of competition or trade and advertising
- 8        practices that are exempt from regulation by the public service commission under s.

✓  
INSERT 9A

INSERT 9-1 ✓

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plain

196.2065 ✓

SECTION 1

strike

or 196.50(2)(i) ✓

1 196.195, 196.196, 196.202, 196.203, 196.219, or 196.499 or by other action of the  
2 commission.

3 SECTION 2. 133.07 (2) of the statutes is amended to read:

4 133.07 (2) This chapter does not prohibit activities of any public utility, as  
5 defined in s. 196.01 (5), or telecommunications carrier, as defined in s. 196.01 (8m),  
6 which are required by ch. 196 or rules or orders under ch. 196, activities necessary  
7 to comply with that chapter or those rules or orders or activities that are actively  
8 supervised by the public service commission. This subsection does not apply to  
9 activities of a public utility or telecommunications carrier that are exempt from

196.2065 ✓

10 public service commission regulation under s. 196.195, 196.196, 196.202, 196.203,  
11 196.219 or 196.499 or by other action by the commission.

12 SECTION 3. 182.017 (1g) (cq) of the statutes is created to read:

13 182.017 (1g) (cq) "Telecommunications service" means the offering for sale of  
14 the conveyance of voice, data, or other information at any frequency over any part  
15 of the electromagnetic spectrum, including the sale of service for collection, storage,  
16 forwarding, switching, and delivery incidental to such communication and including  
17 the regulated sale of customer premises equipment.

regardless of the technology or mode

18 SECTION 4. 196.01 (1d) (g) of the statutes is created to read:

used to make such offering

19 196.01 (1d) (g) A telecommunications utility that provides notice to the  
20 commission under s. 196.50 (2) (j) 1. a.

21 SECTION 5. 196.01 (2s) of the statutes is created to read:

22 196.01 (2s) "Incumbent local exchange carrier" has the meaning given in 47  
23 USC 251 (h).

24 SECTION 6. 196.01 (3a) of the statutes is created to read:

INSERT 10-17 ✓

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1 196.01 (3a) "Interconnected voice over Internet protocol service" has the  
2 meaning given in 47 CFR 9.3.

3 ~~SECTION 7. 196.01 (3f) of the statutes is created to read:  
4 196.01 (3f) "Internet protocol-enabled service" means any service, capability,  
5 functionality, or application provided using Internet protocol, or any successor  
6 protocol, that enables an end user to send or receive a voice, data, or video  
7 communication in Internet protocol format or any successor format. "Internet  
8 protocol-enabled service" includes interconnected voice over Internet protocol  
9 service.~~

10 ~~SECTION 8. 196.01 (3s) of the statutes is created to read:  
11 196.01 (3s) "Local exchange carrier" has the meaning given in 47 USC 153 (32).~~

12 SECTION 9. 196.01 (8d) of the statutes is created to read:  
13 196.01 (8d) "Switched access rates" means the rates, rate elements, and rate  
14 structure, including all applicable fixed and traffic sensitive charges, that a ~~local~~  
15 ~~exchange carrier~~ <sup>telecommunications provider</sup> charges for the provision of switched access ~~services~~ <sup>plain</sup>.

16 SECTION 10. 196.01 (8e) of the statutes is created to read:  
17 196.01 (8e) "Switched access service" means the offering of switched access  
18 to a local exchange network for the purpose of enabling <sup>an entity</sup> ~~a telecommunications~~  
19 ~~provider~~ to originate or terminate telecommunications service within the local  
20 exchange.

21 ~~SECTION 11. 196.01 (9m) of the statutes is amended to read:  
22 196.01 (9m) "Telecommunications service" means the offering for sale of the  
23 conveyance of voice, data or other information communication at any frequency over  
24 any part of the electromagnetic spectrum, including the sale of service for collection,  
25 storage, forwarding, switching and delivery incidental to such communication and~~

*plan 9*

*plan*

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**SECTION 11**

including the regulated sale of customer premises equipment. "Telecommunications service" does not include cable service or broadcast service. "Telecommunications service" includes switched access service.

*proposed by the commission of offering*

*make good to make sure*

*INSEAT 12-3* ✓

**SECTION 12.** 196.01 (12w) of the statutes is created to read:

196.01 (12w) (a) "Wholesale telecommunications service" means, except as provided in par. (b), a service that satisfies all of the following:

1. The service is provided by a telecommunications provider to another telecommunications provider other than an affiliated interest, as defined in s. ~~196.52~~

*196.212 (1) (a)* ✓

2. The service is subject to regulation by the commission under this chapter.

3. The service is subsequently used in the provision of a telecommunications service to retail end users.

(b) "Wholesale telecommunications service" does not include switched access service. ✓

**SECTION 13.** 196.016 of the statutes is created to read:

**196.016 Relationship to certain federal telecommunications law.**

Except as provided in s. 196.50 (2) (j) 2. and 3., nothing in this chapter is intended to either reduce or expand the scope and application of the federal Telecommunications Act of 1996, P.L. 104-104, including the jurisdiction and authority granted to the commission thereunder, and the commission may take any action that the commission is authorized to take under that federal act.

**SECTION 14.** 196.02 (2) of the statutes is amended to read:

196.02 (2) DEFINITION; CLASSIFICATION. In this subsection, "public utility" does not include a telecommunications cooperative, an unincorporated telecommunications cooperative association, or a small telecommunications utility

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1 ~~except as provided under s. 196.205 or 196.215 (2) and does not include an alternative~~  
2 ~~telecommunications utility.~~ The commission shall provide for a comprehensive  
3 classification of service for each public utility. The classification may take into  
4 account the quantity used, the time when used, the purpose for which used, and any  
5 other reasonable consideration. Each public utility shall conform its schedules of  
6 rates, tolls and charges to such classification.

7 **SECTION 15.** 196.04 (1) (a) 1. of the statutes is renumbered 196.04 (1) (a) 4. and  
8 amended to read:

9 196.04 (1) (a) 4. "Transmission equipment and property" means any conduit,  
10 subway, pole, tower, transmission wire, cable, or other equipment on, over, or under  
11 any right-of-way owned or controlled by a political subdivision, street, or highway.

12 **SECTION 16.** 196.04 (1) (a) 3. of the statutes is created to read:

13 196.04 (1) (a) 3. "Political subdivision" means any county, city, village, or town  
14 or public utility owned or operated by any county, city, village, or town.

15 **SECTION 17.** 196.04 (1) (b) 1. of the statutes is amended to read:

16 196.04 (1) (b) 1. Any person who owns transmission equipment and property  
17 shall permit, for reasonable compensation, the use of the transmission equipment  
18 and property, including an attachment to a pole, by any public utility, video service  
19 provider, or telecommunications provider if public convenience and necessity require  
20 such use and if the use will not result in irreparable injury to any owner or user of  
21 the transmission equipment and property or in any substantial detriment to the  
22 service to be rendered by the owner or user.

23 **SECTION 18.** 196.04 (2) of the statutes is amended to read:

24 196.04 (2) If there is a failure to agree upon the use of transmission equipment  
25 and property under sub. (1) or the conditions or compensation for the use, or if there

**BILL**

1 is a failure to agree upon the physical connections or the terms and conditions upon  
2 which the physical connections shall be made, any public utility, ~~any video service~~  
3 ~~provider~~, telecommunications provider, or ~~any other interested~~ person interested  
4 may apply to the commission. If, after investigation, the commission determines  
5 that public convenience and necessity require the use of the transmission equipment  
6 and property or the physical connections and that the use or physical connections  
7 will not result in irreparable injury to the owner or other users of the transmission  
8 equipment and property or of the facilities of the public utility, video service provider,  
9 or telecommunications provider or in any substantial detriment to the service to be  
10 rendered by the owner or the public utility, video service provider,  
11 telecommunications provider, or other users of the transmission equipment and  
12 property or facilities, the commission, by order, shall direct that the use of the  
13 transmission equipment and property be permitted and that the physical  
14 connections be made. The commission shall prescribe reasonable conditions and  
15 compensation for the use of the transmission equipment and property and shall  
16 determine how and within what time the physical connections shall be made and by  
17 whom the expense of making and maintaining the physical connections shall be paid.  
18 An order under this subsection may be revised by the commission.

19 **SECTION 19.** 196.09 (1) of the statutes is amended to read:

20 196.09 (1) ~~In this section, "public utility" does not include a~~  
21 ~~telecommunications cooperative or an unincorporated telecommunications~~  
22 ~~cooperative association except as provided under s. 196.205. In subs. (2) to (7),~~  
23 ~~"public utility" does not include a telecommunications utility. Subsection (9) only~~  
24 ~~applies to a telecommunications utility.~~ Every public utility shall file with the  
25 commission, within such time as may be required by the commission, its estimate of

**BILL**

1 the annual rate of depreciation required for each of its classes of fixed capital used  
2 for public utility purposes, and of the composite annual rate of depreciation required  
3 for such fixed capital as an aggregate, which shall constitute the public utility's  
4 estimates of the amount which should be returned to it out of its rates for service, to  
5 meet the depreciation of its property.

6 **SECTION 20.** 196.09 (9) of the statutes is repealed.

7 **SECTION 21.** 196.13 (2) of the statutes is amended to read:

8 196.13 (2) The commission shall publish in its reports the value of all the  
9 property actually used and useful for the convenience of the public of a public utility,  
10 ~~other than a telecommunications utility~~, if the commission has held a hearing on the  
11 public utility's rates, charges, service or regulations or if the commission has  
12 otherwise determined the value of the public utility's property.

13 **SECTION 22.** 196.19 (1m) of the statutes is repealed.

14 **SECTION 23.** 196.19 (5) of the statutes is repealed.

15 **SECTION 24.** 196.191 of the statutes is created to read:

✓  
INSERT  
15-17

16 **196.191 Telecommunications utility and alternative**

17 **telecommunications utility tariffs.** Notwithstanding anything in this

18 chapter ✓ to the contrary, any telecommunications utility or alternative

19 telecommunications utility may do any of the following:

20 (a) Retain on file with the commission tariffs already on file with the

21 commission as of the effective date of this paragraph .... [LRB inserts date], showing

22 the rates, tolls, and charges that the telecommunications utility or alternative

23 telecommunications utility has established as of the effective date of this paragraph

24 .... [LRB inserts date], for some or all of the services performed by the

25 telecommunications utility or alternative telecommunications utility within the

INSERT 15-19 ✓

**BILL**

1 state or for any service in connection therewith or performed by any  
2 telecommunications utility or alternative telecommunications utility controlled or  
3 operated by the telecommunications utility or alternative telecommunications  
4 utility.

5 (b) Withdraw or change the rates, terms, or conditions of a tariff on file with  
6 the commission, except that the telecommunications utility or alternative  
7 telecommunications utility may not increase its intrastate switched access rates if  
8 it chooses to withdraw its tariff for intrastate switched access services.

9 **4** **6** File with the commission new tariffs showing the rates, tolls, and charges  
10 that the telecommunications utility or alternative telecommunications utility has  
11 established, as provided in the tariff filings, for some or all of the services performed  
12 by the telecommunications utility or alternative telecommunications utility within  
13 the state or for any service in connection therewith or performed by any  
14 **✓** telecommunications utility or alternative telecommunications utility controlled or  
15 operated by the telecommunications utility or alternative telecommunications  
16 utility. **157** **16-17** If a telecommunications utility or alternative telecommunications utility

17 files a new tariff under ~~sub. (a) (b)~~ **sub. (a) (b)**, all of the following apply: **✓**

18 1. The new tariff shall become effective on the date specified in the tariff, unless  
19 the commission suspends the operation of the new tariff upon serving a written  
20 notice of the suspension on the telecommunications utility or alternative  
21 telecommunications utility within 10 days after the date of filing. The notice shall  
22 include a statement of the reason upon which the commission believes the tariff may  
23 be modified, **under subd. 2.** **✓** **under subd. 2.**

24 2. The commission may modify **only** to the extent permitted by ss. 196.203 and  
25 ~~196.50(2)(1) and (3)~~ the new tariff after an opportunity for a hearing.

**INSEAT 16-23** **✓**

**INSEAT 16-25** **✓**

BILL

INSERT 17-6 ✓

3. If the commission does not conduct a hearing under subd. 2., the commission shall issue its final order within 60 days after issuing the notice of suspension under subd. 1. ✓ If the commission conducts a hearing, the commission shall issue its final order within 120 days after issuing the notice of suspension under subd. 1. ✓ If a final order is not issued within the time limits specified in this subdivision, the new tariff becomes effective as filed.

(7) (B) → 4 (8) Nothing in this section shall give the commission jurisdiction over the rates) or terms and conditions of any service that is not subject to a tariff under ~~subd. 1.~~ *stalls and charges*  
*this section*

(9) (B) → 5 (10) Every telecommunications utility or alternative telecommunications utility that files a tariff with the commission under ~~subd. 1.~~ shall include all terms and conditions that apply to the services specified in the tariff and the rates charged or to be charged. *of this section*  
*and the rates charged or*  
*rates, tolls, and charges and all*

~~(11) A telecommunications utility or alternative telecommunications utility may withdraw a tariff for any service by providing notice to the commission.~~

(15) (5) (a) Except as provided in par. (b), a proposed change in a tariff shall be effective at the time specified in the tariff as filed with the commission under subd. (1).

(18) (b) No change in a tariff that constitutes an increase in intrastate switched access rates may be made unless the change is consistent with the public interest factors set forth in s. 196.03 (6) and does not violate s. 196.212 and the commission by order, after investigation and opportunity for a hearing, approves the change.

(22) (6) Nothing in this chapter prohibits a tariff for a service that permits a telecommunications utility or alternative telecommunications utility to enter into ~~an~~ individual contract with ~~an individual~~ customer for that tariffed service that includes rates, terms, and conditions that are different from those in the tariff. ✓  
*he*  
*tolls and charges and*

**BILL**

1 (7) Except as provided in sub. (6), no telecommunications utility or alternative  
 2 telecommunications utility may charge, demand, collect, or receive more or less  
 3 compensation for any service for which a tariff is filed or retained on file under  
 4 ~~sub. (1)~~ than is specified in the tariff, as may at the time be in force, or demand, collect,  
 5 or receive any rate, toll, or charge for such service not specified in the tariff.

6 (8) A copy of the tariffs filed or retained on file under ~~sub. (1)~~ shall be made  
 7 available to consumers in a form and place readily accessible to the public.

8 **SECTION 25.** 196.194 (title) of the statutes is repealed.

9 **SECTION 26.** 196.194 (1) of the statutes is repealed.

10 **SECTION 27.** 196.194 (2) of the statutes is renumbered 196.194 and amended  
 11 to read:

12 **196.194 Gas utilities utility individual contracts.** Nothing in ss. 196.03,  
 13 196.19, 196.20, 196.21, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the  
 14 commission from approving the filing of a tariff which permits a gas utility to enter  
 15 into an individual contract with an individual customer if the term of the contract  
 16 is no more than 5 years, or a longer period approved by the commission, and if the  
 17 commission determines that substitute gas services are available to customers or  
 18 potential customers of the gas utility and the absence of such a tariff will cause the  
 19 gas utility to be disadvantaged in competing for business. A tariff filed under this  
 20 ~~subsection~~ section shall include the condition that any such contract shall be  
 21 compensatory. The tariff shall include any other condition and procedure required  
 22 by the commission in the public interest. Within 20 days after a contract authorized  
 23 under this ~~subsection~~ section or an amendment to such a contract has been executed,  
 24 the gas utility shall submit the contract to the commission. The commission shall  
 25 give notice to any person, upon request, that a contract authorized under this

BILL

INSERT 19-10 ✓

1 ~~subsection~~ section has been received by the commission. The notice shall identify the  
2 gas utility that has entered into the contract. Within 6 months after receiving  
3 substantial evidence that a contract may be noncompensatory, or upon its own  
4 motion, the commission shall investigate and determine whether the contract is  
5 compensatory. If the commission determines that the contract is noncompensatory,  
6 the commission may make appropriate adjustments in the rates or tariffs of the gas  
7 utility that has entered into the contract, in addition to other remedies under this  
8 chapter. The dollar amount of the adjustment may not be less than the amount by  
9 which the contract was found to be noncompensatory.

10 ~~SECTION 28. 196.195 of the statutes is repealed.~~

11 SECTION 29. 196.196 of the statutes is repealed.

12 SECTION 30. 196.198 (2) (a) of the statutes is renumbered 196.198 (2) and  
13 amended to read:

14 196.198 (2) Except as provided in sub. (3), a telecommunications utility that  
15 has more than 150,000 access lines in use in this state or a telecommunications  
16 provider that has more than 150,000 access lines in use in this state may not charge  
17 a residential customer for basic local exchange service based on the duration of a call  
18 or on the time of day that a call is made. This ~~paragraph~~ subsection does not apply  
19 to an extended community telephone service.

20 SECTION 31. 196.198 (2) (b) of the statutes is repealed.

21 SECTION 32. 196.198 (3) (intro.) of the statutes is amended to read:

22 196.198 (3) (intro.) The commission may suspend the application of sub. (2) (a)  
23 in a particular geographical area for a telecommunications utility or a  
24 telecommunications provider if, after a contested case hearing, the commission  
25 determines that all of the following apply:

**BILL**

1           **SECTION 33.** 196.198 (3) (a) of the statutes is amended to read:

2           196.198 (3) (a) Failure to suspend the application of sub. (2) ~~(a)~~ makes  
3 competition in that geographical area impractical.

4           **SECTION 34.** 196.198 (3) (b) (intro.) of the statutes is amended to read:

5           196.198 (3) (b) (intro.) Suspending the application of sub. (2) ~~(a)~~ is beneficial  
6 to all of the following groups:

7           **SECTION 35.** 196.20 (1) of the statutes is amended to read:

8           196.20 (1) The rate schedules of any public utility shall include all rules  
9 applicable to the rendition or discontinuance of the service to which the rates  
10 specified in the schedules are applicable. No change may be made by any public  
11 utility in its schedules except by filing the change as proposed with the commission.  
12 ~~Except for a telecommunications utility, no~~ No change in any public utility rule which  
13 purports to curtail the obligation or undertaking of service of the public utility shall  
14 be effective without the written approval of the commission after hearing, except  
15 that the commission, by emergency order, may make the rule, as filed, effective from  
16 the date of the order, pending final approval of the rule after hearing.

17           **SECTION 36.** 196.20 (1m) of the statutes is repealed.

18           **SECTION 37.** 196.20 (2) (a) (intro.) of the statutes is amended to read:

19           196.20 (2) (a) (intro.) ~~Except for a telecommunications utility, a~~ A proposed  
20 change which constitutes a decrease in rates shall be effective at the time specified  
21 in the change as filed but not earlier than 10 days after the date of filing the change  
22 with the commission, unless any of the following occurs:

23           **SECTION 38.** 196.20 (2) (am) of the statutes is repealed.

24           **SECTION 39.** 196.20 (2m) of the statutes is amended to read:

BILL

INSEPT 21-7 ✓

1 ~~196.20 (2m)~~ Except as provided under sub. (5) and ~~ss. s. 196.193, 196.195 (12)~~  
 2 ~~and 196.196~~, no change in schedules which constitutes an increase in rates to  
 3 consumers may be made except by order of the commission, after an investigation  
 4 and opportunity for hearing. ~~The commission may waive a hearing under this~~  
 5 ~~subsection for a proposed change in a telecommunications utility schedule. By rule~~  
 6 ~~or order, the commission shall specify the notice and procedural requirements~~  
 7 ~~applicable to a telecommunications utility proposal for which a hearing is waived.~~

8 SECTION 40. 196.20 (2r) of the statutes is repealed.

9 SECTION 41. 196.20 (3) of the statutes is repealed.

10 SECTION 42. 196.20 (5) of the statutes is repealed.

11 SECTION 43. 196.20 (6) of the statutes is repealed.

12 SECTION 44. 196.202 (2) of the statutes is amended to read:

13 196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider  
 14 is not subject to ~~ch. 201~~ or this chapter, except as provided in sub. (5), and except that  
 15 a commercial mobile radio service provider is subject to ss. 196.025 (6), 196.218 (3),  
 16 and 196.859, and shall respond, subject to the protection of the commercial mobile  
 17 radio service provider's competitive information, to all reasonable requests for  
 18 information about its operations in this state from the commission necessary to  
 19 administer ss. 196.025 (6), 196.218 (3), and 196.859.

20 SECTION 45. 196.203 (1) of the statutes is renumbered 196.203 (1g) and  
 21 amended to read:

22 196.203 (1g) Alternative telecommunications utilities are exempt from all  
 23 provisions of ~~ch. 201~~ and this chapter, except as provided in this section, and except  
 24 that an alternative telecommunications utility is subject to ~~s. ss.~~ 196.025 (6),  
 25 196.191, 196.206, and 196.212, and except that an alternative telecommunications

196.01, 196.02

INSEPT 21-19 ✓

**BILL**

1 utility that is a local government telecommunications utility, as defined in s. 196.204  
2 (5) (ag) 1., is subject to s. 196.204 (5).

3 **SECTION 46.** 196.203 (1d) of the statutes is created to read:

4 196.203 (1d) In this section, "local government telecommunications utility"  
5 has the meaning given in s. 196.204 (1m) (a).

6 → INSERT 22-5 ←

6 **SECTION 47.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and  
7 amended to read:

8 196.203 (2) (a) No person may commence providing service as an alternative  
9 telecommunications utility unless the person petitions for and the commission issues  
10 a ~~determination~~ certification that the person is an alternative telecommunications  
11 utility or unless the person is a telecommunications utility for which the commission  
12 issues an order under s. 196.50 (2) (j) 1. a.

13 (6) The commission shall maintain information on authorized certified  
14 alternative telecommunications utilities and on applicants for alternative  
15 telecommunications utility status certification and make that information available  
16 to any person, upon request.

17 **SECTION 48.** 196.203 (2) (b) of the statutes is created to read:

18 196.203 (2) (b) Except for an alternative telecommunications utility that is a  
19 local government telecommunications utility, certification as an alternative  
20 telecommunications utility shall be on a statewide basis and any certification issued  
21 by the commission before the effective date of this paragraph<sup>✓</sup> .... [LRB inserts date],  
22 to an alternative telecommunications utility that is not a local government  
23 telecommunications utility is considered amended to be a statewide certification.

24 **SECTION 49.** 196.203 (2) (c) of the statutes is created to read:

**BILL**

INSERT 23-9 ✓

1 196.203 (2) (c) An alternative telecommunications utility may provide notice  
 2 to the commission to maintain certification as an alternative telecommunications  
 3 utility but to recertify the alternative telecommunications utility and impose on the  
 4 alternative telecommunications utility only those provisions of this chapter specified  
 5 in this paragraph. No later than 30 days after receiving notice under this paragraph,  
 6 the commission shall issue an order granting recertification and imposing on the  
 7 alternative telecommunications utility those provisions of this chapter specified in  
 8 sub. (4m) (a) that are imposed on all alternative telecommunications utilities under  
 9 sub. (3). An alternative telecommunications utility for which an order of  
 10 recertification is issued is subject to sub. (1g). The granting of the recertification  
 11 shall operate to terminate the alternative telecommunications utility's prior  
 12 certification and all regulatory requirements related to the prior certification,  
 13 including all such requirements imposed by the certification and all such requirements  
 14 imposed by the commission, whether by statute or commission rule or order, on the  
 15 alternative telecommunications utility are terminated on the effective date of the  
 16 order.

INSERT 23-10 ✓

17 SECTION 50. 196.203 (2) (d) of the statutes is created to read: only  
 18 196.203 (2) (d) The commission may deny a petition for certification as an  
 19 alternative telecommunications utility described in s. 196.01 (1d) (f) if the  
 20 commission finds that the petitioner does not have the financial, managerial, or  
 21 technical capabilities to provide its proposed services or to comply with conditions  
 22 that the commission is authorized to impose under sub. (3).

23 SECTION 51. 196.203 (3) (a) of the statutes is renumbered 196.203 (3) and  
 24 amended to read:

INSERT 23-17 ✓

INSERT 23-12 ✓

**BILL**

**SECTION 51**

1           196.203 (3) In response to a petition from any interested person, or upon its  
 2           own motion, the commission shall determine whether the public interest requires  
 3           that any a provision of ch. 201 or this chapter specified in sub. (4m) be imposed on  
 4           a person providing or proposing to provide service as an alternative  
 5           telecommunications utility in a relevant market. ~~In making this determination, the~~  
 6           ~~commission may consider factors including the quality of service, customer~~  
 7           ~~complaints, concerns about the effect on customers of local exchange~~  
 8           ~~telecommunications utilities and the extent to which similar services are available~~  
 9           ~~from alternative sources.~~ If the commission imposes a provision of this chapter  
 10           specified in sub. (4m) (a) on an alternative telecommunications utility under this  
 11           subsection, the commission shall impose the same provision at the same level of  
 12           regulation on all other alternative telecommunications utilities.

SECTION 52. 196.203 (3) (b) of the statutes is repealed.

SECTION 53. 196.203 (3) (c) of the statutes is repealed.

SECTION 54. 196.203 (3) (d) of the statutes is repealed.

SECTION 55. 196.203 (3) (dm) of the statutes is repealed.

SECTION 56. 196.203 (3) (e) of the statutes is repealed.

SECTION 57. 196.203 (4) of the statutes is repealed.

SECTION 58. 196.203 (4m) of the statutes is created to read:

196.203 (4m) (a) The commission may impose s. 196.01, 196.02 (1), (4), or (5),  
 196.04, 196.135, 196.14, 196.197, 196.199, 196.207, 196.208, 196.209, 196.218,  
 196.219 (1), (2) (b), (c), or (d), (2r), (3) (a), (d), (j), (m); (n), or (o), 196.25, 196.26, 196.39,  
 196.395, 196.40, 196.41, 196.43, 196.44, 196.65, 196.66, 196.81, 196.85, 196.858, or  
 196.859 on an alternative telecommunications utility.

5  
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Statute

← STRIKE

STRIKE

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↑ NO SCORING

← plain period

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24-12 ✓

**BILL**

*intrastate* ✓

1 (b) In addition to the requirements under s. 196.212, the commission may, with  
2 respect only to switched access services, impose s. 196.03 (1) or (6) or 196.37 on an  
3 alternative telecommunications utility. *IN SEPT 25-3* ✓

4 (c) The commission may, with respect only to wholesale telecommunications  
5 service, impose s. 196.03 (1) or (6), 196.219 (4), 196.28, or 196.37 on an alternative  
6 telecommunications utility certified under sub. (2) (a) or (c).

7 (d) An alternative telecommunications utility certified pursuant to s. 196.50 (2)

8 (j) 1. a. shall be subject, with respect only to wholesale telecommunications service,  
9 to all provisions in pars. (a) and (c). *monitory*

10 **SECTION 59.** 196.203 (5) of the statutes is amended to read:

11 196.203 (5) The commission may establish a reasonable fee schedule and may  
12 assess an alternative telecommunications utility to cover the cost of ~~making a~~  
13 ~~certification or other~~ *strike* ~~determination~~ *made* under this section. *certification, recertification, or other determinations*

14 **SECTION 60.** 196.204 (title) of the statutes is repealed and recreated to read:

15 **196.204** (title) **Local government telecommunications utilities.** *other*

16 **SECTION 61.** 196.204 (1) of the statutes is repealed. *determinations*

17 **SECTION 62.** 196.204 (2) of the statutes is repealed.

18 **SECTION 63.** 196.204 (3) of the statutes is repealed.

19 **SECTION 64.** 196.204 (4) of the statutes is repealed.

20 **SECTION 65.** 196.204 (5) (ag) of the statutes is renumbered 196.204 (1m), and  
21 196.204 (1m) (intro.), as renumbered, is amended to read:

22 196.204 (1m) (intro.) In this ~~subsection~~ section:

23 **SECTION 66.** 196.204 (5) (ar) of the statutes is renumbered 196.204 (2m), and

24 196.204 (2m) (a), (b) (intro.) and (c) (intro.), as renumbered, are amended to read:

**BILL****SECTION 66**

1           196.204 (2m) (a) ~~In addition to the other requirements of this section, each~~  
2       Each telecommunications service, relevant group of services, and basic network  
3       function offered or used by a local government telecommunications utility shall be  
4       priced to exceed its total service long-run incremental cost. ~~The commission may~~  
5       ~~waive the applicability of this subdivision to a nongovernmental~~  
6       ~~telecommunications utility's basic local exchange service if the commission~~  
7       ~~determines that a waiver is consistent with the factors under s. 196.03 (6).~~

8           (b) (intro.) For purposes of ~~subd. 1. par. (a)~~, the total service long-run  
9       incremental cost of a local government telecommunications utility shall take into  
10      account, by imputation or allocation, equivalent charges for all taxes, pole rentals,  
11      rights-of-way, licenses, and similar costs that are incurred by nongovernmental  
12      telecommunications utilities. ~~This subdivision~~ paragraph does not apply to a local  
13      government telecommunications utility that is subject to the exemption under s.  
14      66.0422 (3n). ~~This subdivision~~ paragraph also does not apply to a  
15      telecommunications service, relevant group of services, or basic network function if  
16      all of the following conditions apply:

17           (c) (intro.) ~~Subdivision 2. Paragraph (b)~~ does not apply to a telecommunications  
18      service, relevant group of services, or basic network function, that is used to provide  
19      broadband service and that is offered by a municipal telecommunications utility, if  
20      all of the following apply:

21           **SECTION 67.** 196.204 (5) (b) of the statutes is repealed.

22           **SECTION 68.** 196.204 (6) of the statutes is repealed.

23           **SECTION 69.** 196.205 of the statutes is repealed.

24           **SECTION 70.** 196.206 of the statutes is created to read:

**BILL**

*J*

*Vote  
concede  
vote*

**196.206 Internet protocol-enabled service. (1) EXEMPTIONS.** *(a)* Internet

protocol-enabled service is not subject to this chapter, except as provided in this section, and except that interconnected voice over Internet protocol service is subject to ss. 196.025 (6), 196.218 (3), and 196.859. Nothing in this section shall be construed to require or prohibit the payment of switched access rates or other intercarrier compensation. *196.01, 196.016, 196.558*  
*to the same extent...*  
*except...*

(b) Except as provided in this section, and notwithstanding any other provision of law, the commission may not enact, adopt, or enforce, either directly or indirectly, any order, rule, standard, or other provision having the force or effect of law that regulates, or has the effect of regulating, the entry of, or rates, terms or conditions for, Internet protocol-enabled service.

*20* (3) **UNIVERSAL SERVICE FUND.** An entity that provides interconnected voice over Internet protocol service in this state and that contributes to the universal service fund based on its revenues from providing such service shall calculate such revenues using direct assignment, a provider-specific traffic study, the inverse of the interstate jurisdictional allocation established by the federal communications commission for the purpose of federal universal service assessments, or any other reasonable assignment. *shall make*  
*to the extent...*  
*applied*  
*the*  
Direct assignment or traffic studies shall be based on the primary physical service address identified by the customer.

**SECTION 71.** 196.212 of the statutes is created to read:

**196.212 Switched access rates. (1) DEFINITIONS.** In this section:

(a) "Affiliate" means any person, corporation, company, cooperative, unincorporated cooperative association, partnership, association, or other entity that is controlled by, or is under common control with, a telecommunications provider or telecommunications utility.

*CINSEAT 27-20* ✓

BILL

INSERT 28-5 ✓

1 (b) "Large incumbent local exchange carrier" means an incumbent local  
2 exchange carrier that, with any affiliates that are incumbent local exchange carriers  
3 operating in the state, in total had 150,000 or more access lines in use in this state  
4 as of January 1, 2010.

NEW NONINCUMBENTS AND LARGE

CS

5 (c) "Nonincumbent" means a telecommunications provider that is not an  
6 incumbent local exchange carrier.

7 (d) "Small incumbent local exchange carrier" means an incumbent local  
8 exchange carrier that, with any affiliates that are incumbent local exchange carriers  
9 operating in the state, in total had fewer than 150,000 access lines in use in this state  
10 as of January 1, 2010.

INSERT 28-11 ✓

INSERT 28-10

11 (2) REDUCTIONS FOR NONINCUMBENTS. A nonincumbent shall reduce its  
12 intrastate switched access rates to ~~no higher than the nonincumbent's rates for~~  
13 ~~intrastate switched access services~~ as follows:

14 (a) Beginning on the effective date of this paragraph ... [LRB inserts date], the  
15 nonincumbent may not increase its intrastate switched access rates or charge  
16 intrastate switched access rates higher than the amount the nonincumbent charged  
17 for intrastate switched access services on January 1, 2011.

18 (b) No later than ~~one year~~ <sup>4 years</sup> after the effective date of this ~~paragraph~~ <sup>subd. 2.a.</sup> ... [LRB  
19 inserts date], the nonincumbent shall reduce its intrastate switched access rates by  
20 an amount equal to ~~5~~ <sup>large 33</sup> percent of the difference between its intrastate switched  
21 access rates in effect prior to the reduction and its interstate switched access rates  
22 in effect prior to the reduction.

23 (c) No later than ~~2~~ <sup>5</sup> years after the effective date of this ~~paragraph~~ <sup>subd. 2.b.</sup> ... [LRB  
24 inserts date], the nonincumbent shall further reduce its intrastate switched access  
25 rates by an amount equal to 50 percent of the difference between its intrastate

**BILL**

1 switched access rates in effect prior to the reduction and its interstate switched  
2 access rates in effect prior to the reduction.

*subd. 2.c.*

3 ~~It c. (d)~~ No later than <sup>256</sup> years after the effective date of this ~~paragraph~~ <sup>para</sup> .... [LRB  
4 inserts date], the nonincumbent shall reduce its intrastate switched access rates to  
5 mirror its interstate switched access rates in effect prior to the reduction and,  
6 beginning no later than that date, may not charge intrastate switched access rates  
7 that are higher than its interstate switched access rates.

8 (3) REDUCTIONS FOR LARGE INCUMBENT LOCAL EXCHANGE CARRIERS. A large  
9 incumbent local exchange carrier shall reduce its intrastate switched access rates to  
10 no higher than the large incumbent local exchange carrier's ~~interstate~~ <sup>g</sup> interstate  
11 switched access ~~services~~ <sup>rates</sup> as follows:

12 (a) Beginning on the effective date of this paragraph .... [LRB inserts date], the  
13 large incumbent local exchange carrier may not increase its intrastate switched  
14 access rates or charge intrastate switched access rates higher than the amount it  
15 charged for intrastate switched access services on January 1, 2011.

16 (b) No later than one year after the effective date of this paragraph .... [LRB  
17 inserts date], the large incumbent local exchange carrier shall reduce its intrastate  
18 switched access rates by an amount equal to 25 percent of the difference between its  
19 intrastate switched access rates in effect prior to the reduction and its interstate  
20 switched access rates in effect prior to the reduction.

21 (c) No later than 2 years after the effective date of this paragraph .... [LRB  
22 inserts date], the large incumbent local exchange carrier shall further reduce its  
23 intrastate switched access rates by an amount equal to 33 percent of the difference  
24 between its intrastate switched access rates in effect prior to the reduction and its  
25 interstate switched access rates in effect prior to the reduction.

BILL

1 (d) No later than 3 years after the effective date of this paragraph .... [LRB  
 2 inserts date], the large incumbent local exchange carrier shall further reduce its  
 3 intrastate switched access rates by an amount equal to 50 percent of the difference  
 4 between its intrastate switched access rates in effect prior to the reduction and its  
 5 interstate switched access rates in effect prior to the reduction.

6 (e) No later than 4 years after the effective date of this paragraph .... [LRB  
 7 inserts date], the large incumbent local exchange carrier shall reduce its intrastate  
 8 switched access rates to mirror its interstate switched access rates in effect prior to  
 9 the reduction and, beginning no later than that date, may not charge intrastate  
 10 switched access rates that are higher than its interstate switched access rates.

11 (4) COMMISSION REVIEW LIMITED. (a) Notwithstanding any other provision of  
 12 this chapter, subs. (2) and (3) govern the rates that <sup>large</sup> nonincumbents and large  
 13 incumbent local exchange carriers may charge for intrastate switched access  
 14 services. Except as required to enforce this section, the commission may not <sup>investigate,</sup> review  
 15 or set the ~~rates for~~ <sup>rates of</sup> intrastate switched access <sup>of</sup> ~~services~~ <sup>large</sup> nonincumbents and large  
 16 incumbent local exchange carriers.

17 ~~During the 3-year period beginning on the effective date of this paragraph~~  
 18 ~~.... [LRB inserts date], ~~no small incumbent local exchange carrier does not increase~~~~  
 19 ~~its intrastate switched access rates, the commission may not ~~investigate, review, or set~~~~  
 20 ~~small incumbent local exchange carrier's intrastate switched access rates.~~

21 SECTION 72. 196.213 of the statutes is repealed.

22 SECTION 73. 196.215 of the statutes is repealed.

23 SECTION 74. 196.218 (1) (a) of the statutes is created to read:

24 196.218 (1) (a) "Essential telecommunications services" means the services or  
 25 functionalities listed in 47 CFR 54.101 (a) as of January 1, 2010.

INSERT 30-16 ✓

INSERT 30-20 ✓

new nonincumbents ✓

large

investigate,

rates of large

new nonincumbents ✓

investigate, review, or set

of small nonincumbents ✓

**BILL**

1           **SECTION 75.** 196.218 (3) (a) 3m. of the statutes is amended to read:

2           196.218 (3) (a) 3m. Contributions under this paragraph may be based only on  
3           the gross operating revenues from the provision of broadcast services identified by  
4           the commission under subd. 2. and on intrastate telecommunications services

5           ~~provided to end users~~ in this state of the telecommunications providers subject to the  
6           contribution. Wholesale services of any type, including wholesale

7           ~~telecommunications service, provided by any telecommunications provider are not~~  
8           ~~intrastate telecommunications services for purposes of this subdivision.~~

9           Contributions based on revenues from interconnected voice over Internet protocol  
10          service shall be calculated as provided under s. 196.206 (5). (2) ✓

11          **SECTION 76.** 196.218 (3) (f) of the statutes is amended to read:

12          196.218 (3) (f) ~~Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)~~  
13          ~~and (6), 196.213 and 196.215, a~~ A telecommunications utility that provides local  
14          exchange service may make adjustments to local exchange service rates for the  
15          purpose of recovering its contributions to the universal service fund required under  
16          this subsection. A telecommunications utility that adjusts local exchange service  
17          rates for the purpose of recovering such contributions shall identify on customer bills  
18          a single amount that is the total amount of the adjustment. The public service  
19          commission shall provide telecommunications utilities the information necessary to  
20          identify such amounts on customer bills.

21          **SECTION 77.** 196.218 (4) of the statutes is repealed and recreated to read:

22          196.218 (4)    **ESSENTIAL TELECOMMUNICATIONS SERVICES.**   (a)   Each  
23          telecommunications provider that is designated as an eligible telecommunications  
24          carrier pursuant to 47 USC 214 (e) (2) shall make available to its customers all  
25          essential telecommunications services. A telecommunications provider may satisfy

**BILL****SECTION 77**

1 this paragraph by providing essential telecommunications services itself or through  
2 an affiliate and in either case may provide essential telecommunications services  
3 through the use of any available technology or mode.

4 (b) Notwithstanding par. (a), if a commercial mobile radio service provider is  
5 designated or seeks designation as an eligible telecommunications carrier pursuant  
6 to 47 USC 214 (e) for the purpose of federal universal service funding and not for the  
7 purpose of state universal service funding, the commercial mobile radio service  
8 provider is not subject to any eligible telecommunications carrier requirements  
9 imposed by the commission and shall be subject only to the eligible  
10 telecommunications carrier requirements imposed by 47 USC 214 (e) (1) and  
11 regulations and orders of the federal communications commission implementing 47  
12 USC 214 (e) (1).

13 **SECTION 78.** 196.218 (5r) (a) 4. of the statutes is amended to read:

14 196.218 (5r) (a) 4. An assessment of how ~~successful investments identified in~~  
15 ~~s. 196.196 (5) (f),~~ assistance provided by the universal service fund, ~~and price~~  
16 ~~regulation~~ and other alternative incentive regulations of telecommunications  
17 utilities designed to promote competition have been in advancing the public interest  
18 goals identified under s. 196.03 (6), and recommendations for further advancing  
19 those goals.

20 **SECTION 79.** 196.219 (1) (b) of the statutes is amended to read:

21 196.219 (1) (b) "Local exchange service" ~~has the meaning given in s. 196.50 (1)~~  
22 ~~(b) 1. includes access service, basic local exchange service, and business access line~~  
23 and usage service within a local calling area.

24 **SECTION 80.** 196.219 (2) (a) of the statutes is amended to read:

**BILL**

1           196.219 (2) (a) Notwithstanding any exemptions identified in this chapter  
 2           except ~~s. ss.~~ 196.202, 196.203, 196.206, and 196.50, a telecommunications utility or  
 3           provider shall provide protection to its consumers under this section unless  
 4           exempted in whole or in part by rule or order of the commission under this section.  
 5           The commission shall promulgate rules that identify the conditions under which  
 6           provisions of this section may be suspended. ✓

7           **SECTION 81.** 196.219 (2m) of the statutes is repealed.

8           **SECTION 82.** 196.219 (2r) of the statutes is created to read:

9           196.219 (2r) SWITCHED ACCESS RATES. Any reduction in intrastate switched  
 10          access rates ordered by the commission prior to the effective date of this subsection  
 11          ... [LRB inserts date], including any reduction ordered pursuant to s. 196.195, shall ✓  
 12          remain effective unless modified by the commission in a subsequent order, or unless  
 13          the ordered reduction is inconsistent with the requirements of s. 196.212.

14          **SECTION 83.** 196.219 (3) (h) of the statutes is repealed.

15          **SECTION 84.** 196.26 (1) (a) of the statutes is amended to read:

16          196.26 (1) (a) A complaint filed with the commission that any rate, toll, charge,  
 17          or schedule, joint rate, regulation, measurement, act, or practice relating to the  
 18          provision of heat, light, water, or power, ~~or telecommunications service~~ is  
 19          unreasonable, inadequate, unjustly discriminatory, or cannot be obtained.

20          **SECTION 85.** 196.26 (4) of the statutes is repealed.

21          **SECTION 86.** 196.28 (4) of the statutes is amended to read:

22          196.28 (4) This section does not apply to rates, tolls or charges of a  
 23          telecommunications cooperative, an unincorporated telecommunications  
 24          cooperative association, or a small telecommunications utility ~~except as provided in~~  
 25          s. 196.205 ~~or 196.215 (2).~~

2009  
stat 9. ✓

INSEAT 33-13 ✓

INSEAT 33-14 ✓

**BILL**

1           **SECTION 87.** 196.31 (1m) of the statutes is amended to read:

2           196.31 **(1m)** The commission shall compensate any consumer group or  
3 consumer representative for all reasonable costs of participating in a hearing under  
4 s. ~~196.196 (1) (g)~~ or 196.198.

5           **SECTION 88.** 196.37 (3) of the statutes is amended to read:

6           196.37 **(3)** Any public utility to which an order under this section applies shall  
7 make such changes in schedules on file under s. 196.19 to make the schedules  
8 conform to the order. The public utility may not make any subsequent change in  
9 rates, tolls or charges without the approval of the commission, ~~except as provided in~~  
10 ~~s. 196.205 or 196.215 (2).~~

11           **SECTION 89.** 196.37 (4) of the statutes is amended to read:

12           196.37 **(4)** This section does not apply to rates, tolls or charges of a  
13 telecommunications cooperative, an unincorporated telecommunications  
14 cooperative association, or a small telecommunications utility ~~except as provided in~~  
15 ~~s. 196.205 or 196.215 (2).~~

16           **SECTION 90.** 196.49 (1) (ag) of the statutes is repealed.

17           **SECTION 91.** 196.49 (3) (b) (intro.) of the statutes is amended to read:

18           196.49 **(3) (b) (intro.)** ~~Except as provided in par. (d), the~~ The commission may  
19 require by rule or special order under par. (a) that no project may proceed until the  
20 commission has certified that public convenience and necessity require the project.  
21 The commission may refuse to certify a project if it appears that the completion of  
22 the project will do any of the following:

23           **SECTION 92.** 196.49 (3) (d) of the statutes is repealed.

24           **SECTION 93.** 196.50 (title) of the statutes is amended to read:

**BILL**

1           **196.50** (title) **Competing public utilities; indeterminate permits;**  
2 **telecommunications utility certification.**

3           **SECTION 94.** 196.50 (1) (b) 1. and 2. of the statutes are repealed.

4           **SECTION 95.** 196.50 (1) (b) 3. of the statutes is renumbered 196.50 (1) (b).

5           **SECTION 96.** 196.50 (2) (a) of the statutes is amended to read:

6           196.50 (2) (a) Alternative telecommunications utilities shall be certified under  
7 s. 196.203. ~~All Except as provided in par. (j) 1. a., all other telecommunications~~  
8 utilities shall be certified under this subsection.

9           **SECTION 97.** 196.50 (2) (b) of the statutes is amended to read:

10           196.50 (2) (b) A certificate, franchise, license or permit, indeterminate or  
11 otherwise, in effect on September 1, 1994, for a telecommunications utility shall  
12 remain in effect and shall have the effect of a certificate of authority. A  
13 telecommunications utility is not required to apply for a new certificate of authority  
14 to continue offering or providing service to the extent of the prior authorization. Each  
15 telecommunications utility, ~~including telecommunications cooperatives and~~  
16 ~~unincorporated telecommunications cooperative associations,~~ shall have on file with  
17 the commission under s. 196.19 a tariff that sets forth the rates, terms and conditions  
18 for all services provided and a map that defines the geographical limits of the service  
19 territory that the telecommunications utility is obliged to serve.

20           **SECTION 98.** 196.50 (2) (e) 1. of the statutes is amended to read:

21           196.50 (2) (e) 1. Pending the determination on an application for a certificate  
22 of authority or an amended certificate of authority, the commission may issue,  
23 without notice and hearing, a temporary license for a period not to exceed one year  
24 and may temporarily exempt the applicant from requirements of this chapter  
25 identified in s. 196.195 (5) if the exemption is in the public interest. The issuance of

Strike  
15  
16

strike

no score

**BILL**

1 a temporary license does not bind the commission in the final determination on the  
2 application.

3 **SECTION 99.** 196.50 (2) (f) of the statutes is amended to read:

4 196.50 (2) (f) The commission shall issue a certificate of authority or an  
5 amended certificate of authority if it finds, after notice and opportunity for hearing,  
6 that the applicant possesses sufficient technical, financial and managerial resources  
7 to provide telecommunications service to any person within the identified geographic  
8 area. In making this determination, the commission shall consider the factors  
9 identified in s. 196.03 (6). ~~The commission may order the applicant to satisfy any~~  
10 ~~conditions that the commission considers to be necessary to protect the public~~  
11 ~~interest, including structural safeguards.~~

12 **SECTION 100.** 196.50 (2) (g) 3. of the statutes is repealed.

13 **SECTION 101.** 196.50 (2) (h) of the statutes is repealed.

14 **SECTION 102.** 196.50 (2) (i) of the statutes is created to read:

15 196.50 (2) (i) A telecommunications utility certified under this subsection is  
16 exempt from <sup>as s.</sup> ~~196.02 (2) and (6)~~ ~~196.03, except with respect to wholesale~~  
17 ~~telecommunications services, s. 196.05, 196.06, 196.07, 196.09, 196.10, 196.12,~~  
18 ~~196.13, 196.19, 196.20, 196.21, 196.22, 196.23, 196.24, 196.25, 196.26, 196.27, 196.28, except with respect to~~  
19 ~~wholesale telecommunications services, s. 196.37, except with respect to wholesale~~  
20 ~~telecommunications services, s. 196.49, 196.52, 196.58, 196.60, 196.64, 196.78, and~~  
21 ~~196.79, except that with respect only to its switched access services,~~  
22 ~~telecommunications utility certified under this subsection with 50,000 or fewer~~  
23 ~~access lines in this state as of the effective date of this paragraph ... [LRB inserts~~  
24 ~~date]. As not exempt from s. 196.03; and except that, with respect only to its switched~~  
25 ~~access services, a telecommunications utility certified under this subsection with~~

INSEAT 36-21 ✓

**BILL**

1 more than 50,000 and fewer than 150,000 access lines in this state as of the effective  
 2 date of this paragraph ... [LRB inserts date], is not exempt from ss. 196.03 and  
 3 196.37. The intrastate dedicated access service rates of a telecommunications utility  
 4 with 150,000 or more access lines in this state as of the effective date of this  
 5 paragraph ... [LRB inserts date], may not exceed the telecommunications utility's  
 6 interstate access service rates for similar access services, except that such a  
 7 telecommunications utility shall not assess an intrastate carrier common line charge  
 8 or a substitute charge. Except to enforce this paragraph and s. 196.212, the  
 9 commission may not review or set the access rates for a telecommunications utility  
 10 with 150,000 or more access lines in this state as of the effective date of this  
 11 paragraph ... [LRB inserts date].

**SECTION 103.** 196.50 (2) (j) of the statutes is created to read:

12  
13 196.50 (2) (j) 1. A telecommunications utility certified under this subsection  
14 may do any of the following:

15 a. Provide notice to the commission to terminate the certification under this  
 16 subsection and certify the telecommunications utility as an alternative  
 17 telecommunications utility under s. 196.203. No later than 30 days after receiving  
 18 notice under this subd. 1. a., the commission shall issue an order granting a  
 19 certification under s. 196.203. ~~Except as provided in subds. 4. and 5.~~ the granting  
 20 of such certification shall operate to terminate the certification under this subsection  
 21 ~~and~~ all regulatory requirements <sup>in or</sup> related to the certification under this subsection,  
 22 including all such requirements imposed by the certification under this subsection  
 23 ~~or imposed by order or otherwise by the commission.~~ INSERT 37-23

24 b. Provide notice to the commission to recertify the telecommunications utility  
25 under this subsection and impose on the telecommunications utility only those

INSERT 37-21

**BILL**

*Subd. 1. b. c*

1 provisions of this chapter specified in this ~~paragraph~~ <sup>that grants</sup>. No later than 30 days after  
2 receiving notice under this subd. 1. b., the commission shall issue an order ~~granting~~ <sup>and that imposes</sup>  
3 recertification under this subsection ~~and imposing~~ on the telecommunications utility  
4 those provisions of this chapter specified in ~~196.203 (4m) (a) that are imposed on~~

5 ~~all alternative telecommunications utilities under s. 196.203 (3). The~~  
6 telecommunications utility shall be exempt from all provisions of this chapter, except  
7 ss. ~~196.025 (6), 196.191, 196.206, and 196.212, and except as provided in subd. 1.~~ <sup>196.016, 196.219 (2F), and 196.503;</sup>

*196.01*

*INSERT 38-7*

8 ~~and, and except as provided in the order under this subd. 1. b., and except that~~  
9 ~~if the telecommunications utility has 50,000 or fewer access lines in this state as of~~  
10 ~~the effective date of this subd. 1. b. ... [LRB inserts date], then, only with respect to~~  
11 ~~its switched access services, the telecommunications utility is not exempt from s.~~  
12 ~~196.03; and except that, if the telecommunications utility has more than 50,000 and~~  
13 ~~fewer than 150,000 access lines in this state as of the effective date of this subd. 1.~~  
14 ~~... [LRB inserts date], then, only with respect to its switched access services, the~~  
15 ~~telecommunications utility is not exempt from ss. 196.03 and 196.37.~~

16 ~~provided in subds. 1. and 2.~~ the granting of the recertification shall operate to  
17 terminate the telecommunications utility's prior certification ~~and~~ <sup>and</sup> all regulatory  
18 requirements related to the prior certification, including all such requirements  
19 imposed by the certification <sup>and</sup> all <sup>such</sup> requirements imposed by the commission,  
20 whether by statute or commission rule or order, on the telecommunications utility  
21 are terminated on the effective date of the order.

22 2. Issuance of a commission order under subd. 1. shall operate as a limited  
23 waiver of the telecommunications utility's right to an exemption under 47 USC 251  
24 (f) (1), which shall apply only to all of the following:

25 a. The requirements of 47 USC 251 (c) (1) and (2).

*INSERT 38-21*

*INSERT 38-18*

**BILL**

1           b. The requirements of 47 USC 251 (c) (5), but only with respect to the  
2 requirements of 47 CFR 51.325 (a) (1) and (2).

3           3. Issuance of a commission order under subd. 1. shall operate as a limited  
4 waiver of the telecommunications utility's right to petition the commission for  
5 suspension or modification under 47 USC 251 (f) (2), which shall apply only to all of  
6 the following:

7           a. The requirements of 47 USC 251 (b) and (c) (1) and (2).

8           b. The requirements of 47 USC 251 (c) (5), but only with respect to the  
9 requirements of 47 CFR 51.325 (a) (1) and (2).

10          4. Regardless of whether a telecommunications utility certified under this  
11 subsection takes an action allowed under subd. 1., the telecommunications utility is  
12 subject, with respect to its wholesale telecommunications service, to all provisions  
13 specified in s. 196.203 (4m) (a) and (c).

14          5. This paragraph does not terminate any order of the commission regarding  
15 interconnection, unbundling, collocation, or any other obligation under 47 USC 251,  
16 or regarding wholesale telecommunications service.

17          SECTION 104. 196.50 (2) (k) of the statutes is created to read:

18          196.50 (2) (k) Notwithstanding pars. (i) and (j) 1. b., s. 196.212 governs the  
19 rates that a telecommunications provider subject to s. 196.212 may charge for  
20 intrastate switched access services.

21          SECTION 105. 196.503 of the statutes is created to read:

22          **196.503 Telecommunications provider of last-resort obligations. (1)**

23          DEFINITIONS. In this section, "basic voice service" means the provision to residential  
24 customers of 2-way voice communication within a local calling area. "Basic voice  
25 service" includes extended community calling and extended area service. "Basic

**BILL****SECTION 105**

1 voice service” does not include any discretionary or optional services that are  
2 provided to a residential customer, even if provided in a bundle or package with basic  
3 voice service.

4 (2) INCUMBENT LOCAL EXCHANGE CARRIER OBLIGATIONS. (a) Notwithstanding any  
5 other provision in this chapter, and except as provided in sub. (3), an incumbent local  
6 exchange carrier shall make basic voice service available to all residential customers  
7 within a local exchange area in which it operates as an incumbent local exchange  
8 carrier.

9 (b) An incumbent local exchange carrier may satisfy its obligations under par.  
10 (a) through an affiliate and through the use of any available technology or mode.

11 (3) WAIVERS. (a) An incumbent local exchange carrier may apply to the  
12 commission for a waiver from compliance with sub. (2) (a) in a local exchange area. ✓

13 ~~If a waiver is granted, then the requesting incumbent local exchange carrier shall not~~  
14 ~~be eligible to receive moneys from the universal service fund for the purpose of~~  
15 ~~assisting customers of this state that have relatively high costs of~~  
16 ~~telecommunications service in obtaining affordable access to a basic set of essential~~  
17 ~~telecommunications services, as provided in s. 196.218 (5) (a) 1. The requesting~~  
18 ~~carrier may receive moneys from the universal service fund for any other purpose~~  
19 ~~specified in s. 196.218 (5), including any other purpose specified in s. 196.218 (5) (a)~~

20  
21 (b) The commission shall grant a waiver requested under par. (a) for a local  
22 exchange area if any of the following is satisfied:

23 1. The commission finds that the incumbent local exchange carrier  
24 demonstrates that the waiver is in the public interest or that effective competition  
25 exists for basic voice service in the local exchange.

**BILL**

1           2. The commission has made a previous finding of effective competition under  
2 s. 196.195 (2) for basic local exchange service in the local exchange. The commission  
3 may not grant a waiver under this subdivision until after June 1, 2012, or the  
4 effective date of this subdivision ... [LRB inserts date], whichever is later.

5           (c) The commission's review of a waiver requested under par. (a) shall be strictly  
6 limited to determining whether any of the criteria specified in par. (b) 1. or 2. is  
7 satisfied.

8           (d) 1. Within 120 days of the filing of a waiver request based on par. (b) 1., the  
9 commission shall grant or deny the request and, if denied, the commission shall issue  
10 a written decision identifying the reasons for its denial. If the commission fails to  
11 grant or deny the waiver request within 120 days of its filing, the waiver request is  
12 considered granted by operation of law.

13           2. The commission shall grant a waiver based on par. (b) 2. as soon as the  
14 commission verifies that the commission has previously made the finding specified  
15 in par. (b) 2., but no later than 20 days after the filing of the waiver request. If the  
16 commission fails to grant a waiver request based on par. (b) 2. within 20 days of its  
17 filing, the waiver request is considered granted by operation of law. If the  
18 commission denies a waiver based on par. (b) 2., the commission shall issue a written  
19 decision identifying the reasons for its denial.

20           **(4) EFFECT ON OTHER REQUIREMENTS.** (a) Notwithstanding any other provision  
21 of this chapter, a commission decision prior to the effective date of this paragraph ...  
22 [LRB inserts date], eliminating an incumbent local exchange carrier's provider of  
23 last-resort obligations, by operation of law or otherwise, remains in force and in  
24 effect as to the elimination of those obligations.

**BILL****SECTION 105**

1           (b) Except to enforce this section, nothing in this section provides the  
2 commission with any authority to regulate, or any jurisdiction over, incumbent local  
3 exchange carriers and the rates, terms, and conditions of their services that the  
4 commission does not otherwise have under this chapter.

5           **(5) SUNSET.** This section does not apply after April 30, 2013.

6           **SECTION 106.** 196.52 (3) (b) 1. of the statutes is amended to read:

7           196.52 **(3)** (b) 1. The requirement for written approval under par. (a) shall not  
8 apply to any contract or arrangement if the amount of consideration involved is not  
9 in excess of \$25,000 or 5% of the equity of the public utility, whichever is smaller. The  
10 requirement under par. (a) also does not apply to ~~a telecommunications utility~~  
11 ~~contract or arrangement~~ or to contracts or arrangements with joint local water  
12 authorities under s. 66.0823. Regularly recurring payments under a general or  
13 continuing arrangement which aggregate a greater annual amount may not be  
14 broken down into a series of transactions to come within the exemption under this  
15 paragraph. Any transaction exempted under this paragraph shall be valid or  
16 effective without commission approval under this section.

17           **SECTION 107.** 196.52 (3) (c) (intro.) of the statutes is amended to read:

18           196.52 **(3)** (c) (intro.) If the value of a contract or arrangement between an  
19 affiliated interest and a public utility, ~~other than a telecommunications utility,~~  
20 exceeds \$1,000,000, the commission:

21           **SECTION 108.** 196.52 (5) (a) of the statutes is renumbered 196.52 (5).

22           **SECTION 109.** 196.52 (5) (b) of the statutes is repealed.

23           **SECTION 110.** 196.52 (6) of the statutes is amended to read:

24           196.52 **(6)** If the commission finds upon investigation that a public utility, ~~other~~  
25 ~~than a telecommunications utility,~~ is giving effect to a contract or arrangement

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1 without the commission's approval under this section, the commission shall issue a  
2 summary order directing that public utility to cease and desist from making any  
3 payments, receiving compensation, providing any service or otherwise giving any  
4 effect to the contract or arrangement until the contract or arrangement receives the  
5 approval of the commission. The circuit court of Dane County may enforce the order  
6 to cease and desist by appropriate process, including the issuance of a preliminary  
7 injunction, upon the suit of the commission.

8 **SECTION 111.** 196.52 (9) (e) of the statutes is amended to read:

9 196.52 (9) (e) Notwithstanding sub. (5) (a), the commission may not modify or  
10 terminate a leased generation contract approved under sub. (3) except as specified  
11 in the leased generation contract or the commission's order approving the leased  
12 generation contract.

13 **SECTION 112.** 196.60 (1) (a) of the statutes is amended to read:

14 196.60 (1) (a) ~~Except as provided under sub. (2), no~~ No public utility and no  
15 agent, as defined in s. 196.66 (3) (a), or officer of a public utility, directly or indirectly,  
16 may charge, demand, collect or receive from any person more or less compensation  
17 for any service rendered or to be rendered by it in or affecting or relating to the  
18 production, transmission, delivery or furnishing of heat, light, water,  
19 telecommunications service or power or for any service in connection therewith, than  
20 that prescribed in the published schedules or tariffs then in force, or established  
21 under this chapter, or than it charges, demands, collects or receives from any other  
22 person for a like contemporaneous service.

23 **SECTION 113.** 196.60 (2) of the statutes is repealed.

24 **SECTION 114.** 196.604 of the statutes is amended to read:

**BILL****SECTION 114**

1           **196.604 Rebates, concessions and discriminations unlawful.** No person  
2 may knowingly solicit, accept or receive any rebate, concession or discrimination  
3 from a public utility for any service in or affecting or relating to the production,  
4 transmission, delivery or furnishing of heat, light, water or power ~~or the conveying~~  
5 ~~of telecommunications messages~~ within this state or for any connected service  
6 whereby the service is rendered or is to be rendered free or at a rate less than the rate  
7 named in the schedules and tariffs in force, or whereby any other service or  
8 advantage is received. Any person violating this section shall be fined not less than  
9 \$50 nor more than \$5,000 for each offense.

10           **SECTION 115.** 196.77 of the statutes is repealed.

11           **SECTION 116.** 196.79 (1) of the statutes is renumbered 196.79 and amended to  
12 read:

13           **196.79 Reorganization subject to commission approval.** ~~Except as~~  
14 ~~provided in sub. (2), the~~ The reorganization of any public utility shall be subject to  
15 the supervision and control of the commission. No reorganization may take effect  
16 without the written approval of the commission. The commission may not approve  
17 any plan of reorganization unless the applicant for approval establishes that the plan  
18 of reorganization is consistent with the public interest.

19           **SECTION 117.** 196.79 (2) of the statutes is repealed.

20           **SECTION 118.** 196.805 of the statutes is repealed.

21           **SECTION 119.** 196.975 (1) of the statutes is renumbered 196.975 (1r) and  
22 amended to read:

23           **196.975 (1r)** One hundred fifty or more consumers, ~~as defined in s. 196.213 (1)~~  
24 ~~(a) 1.,~~ who are residents of the same local exchange area for telecommunications  
25 service may file with the commission a petition requesting that commission staff, in

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1 cooperation with the affected telecommunications utilities and telecommunications  
 2 carriers, petition the appropriate federal district court to include their local exchange  
 3 area in a different local access and transport area. The petitioners shall include with  
 4 the petition information explaining why the current boundaries of the local access  
 5 and transport area which includes their local exchange area does not adequately  
 6 reflect areas of common social, economic and other concerns.

7 **SECTION 120.** 196.975 (1g) of the statutes is created to read:

8 196.975 (1g) In this section, "consumer" means a person billed for one or more  
 9 local telecommunications service access lines not to exceed one person per access  
 10 line. A person billed for more than one access line may not be considered a consumer  
 11 for each access line for which he or she is billed.

12 **SECTION 121.** 196.975 (2) of the statutes is amended to read:

13 196.975 (2) After receiving a petition under sub. (1) (1r), the commission shall  
 14 schedule a public hearing, to be held in the local exchange area of the petitioners,  
 15 serving to receive testimony on the contents of the petition and any other matters  
 16 deemed relevant by the commission. The commission shall publish a class 1 notice  
 17 under ch. 985 in a newspaper serving the local exchange area at least 20 days prior  
 18 to the hearing.

19 **SECTION 122.** 201.15 of the statutes is repealed.

20 **SECTION 123. Nonstatutory provisions.**

- 21 (1) In this section: <sup>(CS)</sup>
- 22 (a) "Commission" means the public service commission.
- 23 (b) "Price-regulated telecommunications utility" means a telecommunications  
 24 utility that elected to become a price-regulated telecommunications utility under  
 25 section 196.196 (1) or (4), 2009 stats.

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1

~~R~~ #  
"Telecommunications utility" has the meaning given in section 196.01 (10)  
of the statutes.

3

(2) Except as provided in section ~~S~~ 196.219 (2r) of the statutes, as ~~added~~ <sup>removed 196.195 and</sup> affected by this act, on the effective date of this subsection, any requirement imposed by the commission under section 196.195 (5), 2009 stats., or section 196.196, 2009 stats., whether by statute or commission rule or order, on a price-regulated telecommunications utility is terminated.

10

(3) Except as provided in section 196.219 (2r) of the statutes, as <sup>✓</sup> created by this act, on the effective date of this subsection, any requirement imposed on a telecommunications utility under section 196.203, 2009 stats., or section 196.50, 2009 stats., whether by statute or commission rule or order, that is inconsistent with sections 196.203 or 196.50 (2) of the statutes, as affected by this act, is terminated.

13

(END)

or alternative telecommunications utility ✓

D-note  
↓