



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment IV

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2011 LRB-1625 (For: Rep. Honadel)

has been transferred to the drafting file for

2011 LRB-1901 (For: Rep. Honadel)

☞ Are These “Companion Bills” ?? ... No



RESEARCH APPENDIX -

PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 04/12/2011 (Per: MDK)

☞ The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

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State of Wisconsin
2011 - 2012 LEGISLATURE

January 2011 Special Session



LRB-00007P1
MDK:wlj:kjf:ld:md

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

-1625/P1

RM NOT
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1 AN ACT *to repeal* 196.09 (9), 196.19 (1m), 196.19 (5), 196.194 (1), 196.194 (2)
2 (title), 196.196, 196.198 (2) (b), 196.20 (1m), 196.20 (2) (am), 196.20 (2r), 196.20
3 (3), 196.20 (5), 196.20 (6), 196.203 (3) (b), 196.203 (3) (c), 196.203 (3) (d), 196.203
4 (3) (dm), 196.203 (3) (e), 196.203 (4), ~~196.204 (1)~~, 196.204 (2), 196.204 (3),
5 196.204 (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), 196.02 (2), 196.04 (1) (b) 1., 196.04
12 (2), 196.09 (1), 196.13 (2), 196.195 (1), 196.195 (5), 196.195 (12) (a), 196.195 (12)
13 (b) 3., 196.198 (3) (intro.), 196.198 (3) (a), 196.198 (3) (b) (intro.), 196.20 (1),
14 196.20 (2) (a) (intro.), 196.20 (2m), 196.203 (5), 196.218 (3) (a) 3m., 196.218 (3)
15 (f), 196.218 (5r) (a) 4., 196.219 (1) (b), 196.219 (2) (a), 196.26 (1) (a), 196.28 (4),

1 196.31 (1m), 196.37 (3), 196.37 (4), 196.49 (3) (b) (intro.), 196.50 (title), 196.50
2 (2) (a), 196.50 (2) (b), 196.50 (2) (f), 196.52 (3) (b) 1., 196.52 (3) (c) (intro.), 196.52
3 (6), 196.52 (9) (e), 196.60 (1) (a), 196.604 and 196.975 (2); **to repeal and**
4 **recreate** 196.204 (title) and 196.218 (4); and **to create** 196.01 (1d) (g), 196.01
5 (3a), 196.01 (12w), 196.016, 196.04 (1) (a) 3., 196.191, 196.203 (1d), 196.203 (2)
6 (b), 196.203 (2) (c), 196.203 (2) (d), 196.203 (4m), 196.206, 196.212, 196.218 (1)
7 (a), 196.219 (2r), 196.50 (2) (i), 196.50 (2) (j), 196.503 and 196.975 (1g) of the
8 statutes; **relating to:** authority of the Public Service Commission over certain
9 telecommunications utilities, telecommunications provider of last-resort
10 obligations, telecommunications switched access service rates, and
11 interconnected voice over Internet protocol service.

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) specifies the PSC's authority over switched access and wholesale telecommunications service; 3) creates requirements for telecommunications utility tariffs; 4) specifies the PSC's authority over interconnected voice over Internet protocol (VOIP) 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; 7) makes changes to requirements for the use of another person's transmission equipment and property by public utilities and telecommunications providers; and 8) makes other changes, including repealing provisions regarding access services and discrimination in favor of telecommunications affiliates. (This analysis must be revised to describe the requirements of s. 196.212, which deal with intrastate switched access rates. I will make such revisions after I understand how s. 196.212 relates to the material described in the foregoing item 2.)

TELECOMMUNICATIONS UTILITY REGULATION

Under current law, a telecommunications provider that provides basic local exchange service is defined to be a telecommunications utility. The PSC's authority over a telecommunications utility depends on whether the PSC has certified the telecommunications utility as 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 telecommunications providers that resulted from the

*** NOTE: MDK must revise analysis to
conform to new instructions.

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 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 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.

The bill provides that, if the PSC imposes any of the foregoing requirements on an ATU, the PSC must impose the same requirement at the same level of regulation on all other ATUs. In addition, the bill provides that an ATU that provides interconnected VOIP service is subject to the requirements described below. Also, the bill allows an ATU to elect to subject itself to the tariff requirements described

below. The bill also 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. However, as discussed below, some of the foregoing exemptions do not apply to wholesale telecommunications service or switched access service. The bill makes changes to current law to ensure that small TUs, and TUs that are cooperatives, are subject to the foregoing exemptions. 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 services jointly offered 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.

The bill also allows a TU to terminate its certification as a TU and require the PSC to certify the TU as an ATU and issue an order terminating all regulatory requirements related to the TU certification, except for certain requirements regarding wholesale telecommunications service 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, with the same exception for wholesale telecommunications service.

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) 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, or any obligation under federal interconnection law or regarding wholesale telecommunications services.

SWITCHED ACCESS AND WHOLESALE TELECOMMUNICATIONS SERVICE

The bill creates requirements that apply to switched access and wholesale telecommunications service provided by ATUs and TUs. The bill defines "wholesale telecommunications service" as a service, other than a switched access service, that is: 1) provided by one telecommunications provider to another who is not an affiliate; 2) subject to regulation by the PSC; and 3) subsequently used in the provision of a telecommunications service to retail end user customers. The bill does not define "switched access service," but that term refers to a service by which one TU or ATU provides access to its switched network to a second TU or ATU so that customers of the second TU or ATU can complete calls to customers of first TU or ATU. (The foregoing sentence must be revised to account for the definition of "switched access rates" in s. 196.212. Depending on how s. 196.212 relates to the rest of the draft, additional revisions may be necessary.)

Switched access service. The bill allows the PSC to impose on an ATU, but only with respect to switched access services, requirements under current law regarding the duty to provide reasonable service at reasonable and just rates (reasonable service and rates duty) and the authority of the PSC to issue orders regarding unreasonable or inadequate service (PSC unreasonable service authority). If the ATU required the PSC to recertify the ATU as an ATU as described above, the PSC may impose the foregoing requirements only if required by the public interest.

With respect to a TU, including a TU that recertifies as a TU but is regulated like an ATU, the following requirements apply: 1) if the TU has 50,000 or fewer access lines in the state on the bill's effective date, the TU is subject to the reasonable service and rates duty, but only with respect to the TU's switched access service; 2) if the TU has more than 50,000 and fewer than 150,000 access lines in this state on the bill's effective date, the TU is subject to the reasonable service and rates duty and the PSC unreasonable service authority, but only with respect to the TU's switched access service.

If a TU has 150,000 or more access lines in this state on the bill's effective date, the TU's intrastate access service rates may not exceed the TU's interstate access service rates for similar access services, except that the TU is not allowed to assess an intrastate carrier common line charge or a substitute charge. Except to enforce the foregoing requirements, the bill provides that the PSC may not review or set the access rates for a TU with 150,000 or more access lines in this state on the bill's effective date. In addition, the foregoing requirements regarding a TU with 150,000

or more access lines in this state on the bill's effective date do not apply to a TU that recertifies as a TU but is regulated like an ATU.

In addition, the bill provides that any reduction in switched access service rates ordered by the PSC prior to the bill's effective date remain effective unless modified by the PSC in a subsequent order.

Wholesale telecommunications service. The bill allows the PSC to impose on an ATU, but only with respect to wholesale telecommunications service, the reasonable service and rates duty and the PSC unreasonable service authority, as well as requirements under current law regarding the PSC's enforcement authority for certain consumer protection requirements (PSC consumer enforcement authority) and the PSC's investigative authority. If the ATU required the PSC to recertify the ATU as an ATU as described above, the PSC may impose the foregoing requirements only if required by the public interest.

In addition, if an ATU is a former TU that recertified as an ATU under the bill, the ATU is subject, with respect to only wholesale telecommunications services, the requirements that the PSC is allowed to impose on an ATU. Those requirements apply with respect to wholesale telecommunications service even if the PSC does not impose them on such an ATU. Also, those requirements apply to a TU with respect to wholesale telecommunications service, regardless of whether the TU elects to certify as an ATU or recertify as a TU that is regulated like an ATU.

TARIFFS

The bill allows a TU or 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 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 switched access service rates. If an increase mirrors interstate switched access service rates, the increase goes into effect on the tenth day after the change in the tariff is filed, unless the PSC suspends the rate increase and initiates an investigation. Other increases in switched access rates are not effective until the PSC approves the increase, based on specified public interest factors, after an opportunity for hearing.

In addition, the bill allows a tariff for a service that permits a TU or 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 ATU from receiving for a service more or less compensation than that specified for the service in the tariff, and prohibits a TU or ATU from receiving compensation for a service that is not specified

in a tariff. Also, copies of tariffs filed under the bill must be made available to consumers in a form and place readily accessible to the public.

INTERCONNECTED VOIP SERVICE

With certain exceptions, the bill provides that interconnected VOIP service is exempt from PSC regulation. The bill provides that interconnected VOIP 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 exemption is that a person who provides active retail voice communications service, who also provides interconnected VOIP service, must make contributions to the state universal service fund based on its revenues from providing the service. The bill specifies the methods for calculating the revenues. Another exception is that, unless otherwise provided under federal law, interconnected VOIP services are subject to intrastate switched access charges to the same extent as telecommunications utilities are subject to the charges. Under additional exceptions, providers of interconnected VOIP service must impose the monthly police and fire protection fee on its customers and 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. 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.

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. 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 the following are satisfied: 1) public convenience and necessity require the use; 2) the use does not result in irreparable injury to an owner or user of the equipment and property; and 3) the use does not result in any substantial detriment to service rendered by the owner or user of the equipment and property. 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. Current law defines "transmission equipment and property" as any conduit, subway, pole, tower, transmission wire, or other equipment on, over, or under any street or highway.

This bill defines "transmission equipment and property" as any cable, in addition to any conduit, subway, pole, tower, transmission wire, or other equipment, which is on, over, or under any right-of-way owned or controlled by a political subdivision, in addition to any street or highway. "Political subdivision" is defined as any county, city, village, 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 conditions described above.

The bill also affects the PSC's authority to determine compensation for use of transmission equipment and property. Under the bill, the PSC must determine that a charge sought to be imposed on a public utility, telecommunications provider, or video service or cable television franchisee for an attachment to transmission equipment and property is unjust and unreasonable if the charge exceeds the maximum amount allowed under federal law and Federal Communications Commission regulations regarding compensation for pole attachments. The foregoing applies regardless of whether the service using the attachment that is provided by the public utility, video service provider, or telecommunications provider is classified as cable or telecommunications service under federal law. (I will revise this paragraph after I understand your intent on the applicability of federal law.)

OTHER CHANGES

The bill repeals 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. "Access service" is defined under current law, in part, as the provision of switched or dedicated access to a local exchange network for the purpose of enabling a telecommunications provider to originate or terminate telecommunications service. The bill also repeals a prohibition under current law on a TU, with respect to its regulated services, or a telecommunications provider, with respect to its offering of local exchange services, from giving preference or discriminating in the provision of services, products, or facilities to an affiliate or to the consumer retail department of the TU, telecommunications provider, or affiliate. Under current law, the foregoing prohibition applies to the extent the preference or discrimination is prohibited under federal law or the PSC's rules.

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.

9 196.195, ~~196.196~~, 196.202, 196.203, 196.219, or 196.499 or by other action of the

10 commission.

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

12 133.07 (2) This chapter does not prohibit activities of any public utility, as

13 defined in s. 196.01 (5), or telecommunications carrier, as defined in s. 196.01 (8m),

INSERT 10-6

1 which are required by ch. 196 or rules or orders under ch. 196, activities necessary
2 to comply with that chapter or those rules or orders or activities that are actively
3 supervised by the public service commission. This subsection does not apply to
4 activities of a public utility or telecommunications carrier that are exempt from
5 public service commission regulation under s. 196.195, ~~196.196~~, 196.202, 196.203,
6 196.219 or 196.499 or by other action by the commission.

7 SECTION 3. 196.01 (1d) (g) of the statutes is created to read:

8 196.01 (1d) (g) A telecommunications utility that provides notice to the
9 commission under s. 196.50 (2) (j) 1. a.

10 SECTION 4. 196.01 (3a) of the statutes is created to read:

11 196.01 (3a) "Interconnected voice over Internet protocol service" has the
12 meaning given in 47 CFR 9.3.

13 SECTION 5. 196.01 (12w) of the statutes is created to read:

14 196.01 (12w) (a) "Wholesale telecommunications service" means, except as
15 provided in par. (b), a service that satisfies all of the following:

16 1. The service is provided by a telecommunications provider to another
17 telecommunications provider other than an affiliated interest, as defined in s. 196.52
18 (1).

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

20 3. The service is subsequently used in the provision of a telecommunications
21 service to retail end user customers.

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

24 SECTION 6. 196.016 of the statutes is created to read:

INSERT 10-12

1 **196.016 Relationship to certain federal telecommunications law.**

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

7 **SECTION 7.** 196.02 (2) of the statutes is amended to read:

8 196.02 (2) DEFINITION; CLASSIFICATION. ~~In this subsection, “public utility” does~~
9 ~~not include a telecommunications cooperative, an unincorporated~~
10 ~~telecommunications cooperative association, or a small telecommunications utility~~
11 ~~except as provided under s. 196.205 or 196.215 (2) and does not include an alternative~~
12 ~~telecommunications utility.~~ The commission shall provide for a comprehensive
13 classification of service for each public utility. The classification may take into
14 account the quantity used, the time when used, the purpose for which used, and any
15 other reasonable consideration. Each public utility shall conform its schedules of
16 rates, tolls and charges to such classification.

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

19 196.04 (1) (a) 4. “Transmission equipment and property” means any conduit,
20 subway, pole, tower, transmission wire, cable, or other equipment on, over, or under
21 any right-of-way owned or controlled by a political subdivision, street, or highway.

22 **SECTION 9.** 196.04 (1) (a) 3. of the statutes is created to read:

23 196.04 (1) (a) 3. “Political subdivision” means any county, city, village, town,
24 or public utility owned or operated by any county, city, village, or town.

25 **SECTION 10.** 196.04 (1) (b) 1. of the statutes is amended to read:

INSEPT 12-3

1 196.04 (1) (b) 1. Any person who owns transmission equipment and property
2 shall permit, for reasonable compensation, the use of the transmission equipment
3 and property by any public utility, video service provider, or telecommunications
4 provider if public convenience and necessity require such use and if the use will not
5 result in irreparable injury to any owner or user of the transmission equipment and
6 property or in any substantial detriment to the service to be rendered by the owner
7 or user.

8 **SECTION 11.** 196.04 (2) of the statutes is amended to read:

9 196.04 (2) If there is a failure to agree upon the use of the transmission
10 equipment and property under sub. (1) or the conditions or compensation for the use,
11 or if there is a failure to agree upon the physical connections or the terms and
12 conditions upon which the physical connections shall be made, any public utility, ~~any~~
13 video service provider, telecommunications provider, or ~~any~~ other interested person
14 ~~interested~~ may apply to the commission. If, after investigation, the commission
15 determines that public convenience and necessity require the use of the transmission
16 equipment and property or the physical connections and that the use or physical
17 connections will not result in irreparable injury to the owner or other users of the
18 transmission equipment and property or of the facilities of the public utility, video
19 service provider, or telecommunications provider, or in any substantial detriment to
20 the service to be rendered by the owner or the public utility, video service provider,
21 telecommunications provider, or other users of the transmission equipment and
22 property or facilities, the commission, by order, shall direct that the use of the
23 transmission equipment and property be permitted and that the physical
24 connections be made. The commission shall prescribe reasonable conditions and
25 compensation for the use of the transmission equipment and property and shall

1 determine how and within what time the physical connections shall be made and by
2 whom the expense of making and maintaining the physical connections shall be paid.

3 An order under this subsection may be revised by the commission, The commission

4 shall determine that any charge sought to be imposed on a public utility, video service
5 provider, or telecommunications provider for an attachment to any transmission
6 equipment and property is unjust and unreasonable if the charge exceeds the
7 maximum rate allowed under 47 USC 224 (d) and federal regulations implementing
8 that section, regardless of whether the service using the attachment that is provided
9 by the public utility, video service provider, or telecommunications provider is
10 classified as cable or telecommunications service under federal law.

11 **SECTION 12.** 196.09 (1) of the statutes is amended to read:

12 196.09 (1) ~~In this section, "public utility" does not include a~~
13 ~~telecommunications cooperative or an unincorporated telecommunications~~
14 ~~cooperative association except as provided under s. 196.205. In subs. (2) to (7),~~
15 ~~"public utility" does not include a telecommunications utility. Subsection (9) only~~
16 ~~applies to a telecommunications utility. Every public utility shall file with the~~
17 ~~commission, within such time as may be required by the commission, its estimate of~~
18 ~~the annual rate of depreciation required for each of its classes of fixed capital used~~
19 ~~for public utility purposes, and of the composite annual rate of depreciation required~~
20 ~~for such fixed capital as an aggregate, which shall constitute the public utility's~~
21 ~~estimates of the amount which should be returned to it out of its rates for service, to~~
22 ~~meet the depreciation of its property.~~

23 **SECTION 13.** 196.09 (9) of the statutes is repealed.

24 **SECTION 14.** 196.13 (2) of the statutes is amended to read:

1 196.13 (2) The commission shall publish in its reports the value of all the
2 property actually used and useful for the convenience of the public of a public utility,
3 ~~other than a telecommunications utility~~, if the commission has held a hearing on the
4 public utility's rates, charges, service or regulations or if the commission has
5 otherwise determined the value of the public utility's property.

6 **SECTION 15.** 196.19 (1m) of the statutes is repealed.

7 **SECTION 16.** 196.19 (5) of the statutes is repealed.

8 **SECTION 17.** 196.191 of the statutes is created to read:

9 **196.191 Telecommunications utility and alternative**
10 **telecommunications utility tariffs.** (1) Notwithstanding anything in this
11 chapter to the contrary, any telecommunications utility, ~~including an~~^{or} alternative
12 telecommunications utility, may do any of the following:

13 (a) Retain on file with the commission tariffs already on file with the
14 commission as of the effective date of this paragraph [LRB inserts date], showing
15 the rates, tolls, and charges that the telecommunications utility, ~~including an~~^{or}
16 ~~alternative telecommunications utility~~, has established as of the effective date of this
17 paragraph [LRB inserts date], for some or all of the services performed by the
18 telecommunications utility, ~~including an~~^{or} alternative telecommunications utility,
19 within the state or for any service in connection therewith or performed by any
20 telecommunications utility, ~~including an~~^{or} alternative telecommunications utility,
21 controlled or operated by the telecommunications utility, ~~including an~~^{or} alternative
22 telecommunications utility.

23 (b) Withdraw or change the rates, terms, or conditions of a tariff on file with
24 the commission.

17 SEPT 14-24

1 (c) File with the commission new tariffs showing the rates, tolls, and charges
2 that the telecommunications utility, ~~including an~~^{or} alternative telecommunications
3 utility, ~~has~~^{is} established, as provided in the tariff filings, for some or all of the services
4 performed by the telecommunications utility, ~~including an~~^{or} alternative
5 telecommunications utility, ~~within~~^{is} the state or for any service in connection
6 therewith or performed by any telecommunications utility, ~~including an~~^{or} alternative
7 telecommunications utility, ~~controlled or operated by the telecommunications utility,~~^{is}
8 ~~including an~~^{or} alternative telecommunications utility. If a telecommunications utility
9 ~~including an~~^{or} alternative telecommunications utility files a new tariff under this
10 paragraph, all of the following apply:

11 1. The new tariff shall become effective on the date specified in the tariff, unless
12 the commission suspends the operation of the new tariff upon serving a written
13 notice of the suspension on the telecommunications utility, ~~including an~~^{or} alternative
14 telecommunications utility, ~~within~~^{is} 10 days after the date of filing. The notice shall
15 include a statement of the reason under subd. 2. upon which the commission believes
16 the tariff may be modified.

17 2. The commission may modify the new tariff after an opportunity for a hearing,
18 only to the extent permitted by ss. 196.203 and 196.50 (2) (i) and (j).

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

1 (2) Nothing in this section shall give the commission jurisdiction over the rates
2 or terms and conditions of any service that is not subject to a tariff under sub. (1).

3 (3) Every telecommunications utility, ~~including an~~ ^{or} alternative
4 telecommunications utility, that files a tariff with the commission under this section
5 shall include all terms and conditions that apply to the services specified in the tariff
6 and the rates charged or to be charged.

7 (4) A telecommunications utility, ~~including an~~ ^{or} alternative telecommunications
8 utility, may withdraw a tariff for any service by providing notice to the commission.

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

11 (b) No change in a tariff that constitutes an increase in switched access service
12 rates may be made unless the change is consistent with the public interest factors
13 set forth in s. 196.03 (6) and does not violate s. 196.212 and the commission by order,
14 after investigation and opportunity for a hearing, approves the change, ~~except that~~
15 ~~an increase in switched access service rates to mirror interstate switched access~~
16 ~~service rates shall go into effect on the 10th day after the change in the tariff is filed,~~
17 ~~unless the commission, before that day, suspends the rate increase and initiates an~~
18 ~~investigation under this paragraph.~~

19 (6) Nothing in this chapter prohibits a tariff for a service that permits a
20 telecommunications utility, ~~including an~~ ^{or} alternative telecommunications utility, to
21 enter into an individual contract with an individual customer for that tariffed service
22 that includes rates, terms, and conditions that are different from those in the tariff.

23 (7) Except as provided in sub. (6), no telecommunications utility, ~~including an~~
24 ^{or} alternative telecommunications utility, may charge, demand, collect, or receive more
25 or less compensation for any service for which a tariff is filed under this section than

1 is specified in the tariff, as may at the time be in force, or demand, collect, or receive
2 any rate, toll, or charge for such service not specified in the tariff.

3 (8) A copy of the tariffs filed under this section shall be made available to
4 consumers in a form and place readily accessible to the public.

5 **SECTION 18.** 196.194 (1) of the statutes is repealed.

6 **SECTION 19.** 196.194 (2) (title) of the statutes is repealed.

7 **SECTION 20.** 196.194 (2) of the statutes is renumbered 196.194 and amended
8 to read:

9 **196.194 Public Gas utility individual contracts.** Nothing in ss. 196.03,
10 196.19, 196.20, 196.21, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the
11 commission from approving the filing of a tariff which permits a gas utility to enter
12 into an individual contract with an individual customer if the term of the contract
13 is no more than 5 years, or a longer period approved by the commission, and if the
14 commission determines that substitute gas services are available to customers or
15 potential customers of the gas utility and the absence of such a tariff will cause the
16 gas utility to be disadvantaged in competing for business. A tariff filed under this
17 ~~subsection~~ section shall include the condition that any such contract shall be
18 compensatory. The tariff shall include any other condition and procedure required
19 by the commission in the public interest. Within 20 days after a contract authorized
20 under this ~~subsection~~ section or an amendment to such a contract has been executed,
21 the gas utility shall submit the contract to the commission. The commission shall
22 give notice to any person, upon request, that a contract authorized under this
23 ~~subsection~~ section has been received by the commission. The notice shall identify the
24 gas utility that has entered into the contract. Within 6 months after receiving
25 substantial evidence that a contract may be noncompensatory, or upon its own

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1 motion, the commission shall investigate and determine whether the contract is
2 compensatory. If the commission determines that the contract is noncompensatory,
3 the commission may make appropriate adjustments in the rates or tariffs of the gas
4 utility that has entered into the contract, in addition to other remedies under this
5 chapter. The dollar amount of the adjustment may not be less than the amount by
6 which the contract was found to be noncompensatory.

7 SECTION 21. 196.195 (1) of the statutes is amended to read:

8 196.195 (1) REGULATION IMPOSED. Except as provided in this section and ss.
9 196.202, 196.203, ~~196.215 and~~, 196.219, and 196.50 (2) (i), a telecommunications
10 utility is subject to every applicable provision of this chapter and ch. 201.

11 SECTION 22. 196.195 (5) of the statutes is amended to read:

12 196.195 (5) COMMISSION ACTION. If after the proceedings under subs. (2), (3) and
13 (4) the commission has determined that effective competition exists in the market
14 for the telecommunications service which justifies a lesser degree of regulation and
15 that lesser regulation in that market will serve the public interest, the commission
16 may, by order, suspend any ~~of the following~~ provisions of law ch. 201, except as
17 provided under subs. (7) and (8): ~~ch. 201 and s. 196.02 (2); s. 196.05; s. 196.06; s.~~
18 ~~196.07; s. 196.09; s. 196.10; s. 196.12; s. 196.13 (2); s. 196.19; tariffing requirements~~
19 ~~under s. 196.194; s. 196.196 (1) or (5); s. 196.20; s. 196.21; s. 196.22; s. 196.26; s.~~
20 ~~196.28; s. 196.37; s. 196.49; s. 196.52; s. 196.58; s. 196.60; s. 196.604; s. 196.77; s.~~
21 ~~196.78; s. 196.79; and s. 196.805.~~

22 SECTION 23. 196.195 (12) (a) of the statutes is amended to read:

23 196.195 (12) (a) To provide incentives for telecommunications utilities to
24 achieve any of the goals listed in par. (b) 1. a., the commission may suspend any of
25 the provisions listed in sub. (5) except ss. ~~196.19, 196.20 (1m), 196.22, 196.26, 196.37,~~

and (i)

1 ~~196.60 and 196.604 of ch. 201~~ or may approve a regulatory method alternative to
2 traditional rate-of-return regulation that does not require suspension of any
3 provisions listed in sub. (5).

4 **SECTION 24.** 196.195 (12) (b) 3. of the statutes is amended to read:

5 196.195 (12) (b) 3. The commission shall regulate telecommunications utilities
6 with the goal of developing alternative forms of regulation. The commission shall, by
7 order, develop and approve an incentive regulatory plan for each
8 telecommunications utility to implement this subdivision. The commission may not
9 increase regulation of a small telecommunications utility in implementing this
10 subdivision. ~~For telecommunications utilities with more than 150,000 access lines~~
11 ~~in use in this state, s. 196.196 (2) applies to access service rates in any regulatory plan~~
12 ~~approved under this subdivision.~~

13 **SECTION 25.** 196.196 of the statutes is repealed.

14 **SECTION 26.** 196.198 (2) (a) of the statutes is renumbered 196.198 (2) and
15 amended to read:

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

22 **SECTION 27.** 196.198 (2) (b) of the statutes is repealed.

23 **SECTION 28.** 196.198 (3) (intro.) of the statutes is amended to read:

24 196.198 (3) (intro.) The commission may suspend the application of sub. (2) ~~(a)~~
25 in a particular geographical area for a telecommunications utility or a

1 telecommunications provider if, after a contested case hearing, the commission
2 determines that all of the following apply:

3 **SECTION 29.** 196.198 (3) (a) of the statutes is amended to read:

4 196.198 (3) (a) Failure to suspend the application of sub. (2) ~~(a)~~ makes
5 competition in that geographical area impractical.

6 **SECTION 30.** 196.198 (3) (b) (intro.) of the statutes is amended to read:

7 196.198 (3) (b) (intro.) Suspending the application of sub. (2) ~~(a)~~ is beneficial
8 to all of the following groups:

9 **SECTION 31.** 196.20 (1) of the statutes is amended to read:

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

19 **SECTION 32.** 196.20 (1m) of the statutes is repealed.

20 **SECTION 33.** 196.20 (2) (a) (intro.) of the statutes is amended to read:

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

25 **SECTION 34.** 196.20 (2) (am) of the statutes is repealed.

1 **SECTION 35.** 196.20 (2m) of the statutes is amended to read:

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

9 **SECTION 36.** 196.20 (2r) of the statutes is repealed.

10 **SECTION 37.** 196.20 (3) of the statutes is repealed.

11 **SECTION 38.** 196.20 (5) of the statutes is repealed.

12 **SECTION 39.** 196.20 (6) of the statutes is repealed.

13 **SECTION 40.** 196.203 (1) of the statutes is renumbered 196.203 (1g) and
14 amended to read:

15 196.203 **(1g)** Alternative telecommunications utilities are exempt from all
16 provisions of ch. 201 and this chapter, except as provided in this section, and except
17 that an alternative telecommunications utility is subject to ~~s. ss.~~ s. 196.025 (6),
18 196.206, and 196.212 and may elect to subject itself to s. 196.191, and except that an
19 alternative telecommunications utility that is a local government
20 telecommunications utility, ~~as defined in s. 196.204 (5) (ag) 1.,~~ is subject to s. 196.204
21 (5).

22 **SECTION 41.** 196.203 (1d) of the statutes is created to read:

23 196.203 **(1d)** In this section, "local government telecommunications utility"
24 has the meaning given in s. 196.204 (1m) (a).

1 **SECTION 42.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and
2 amended to read:

3 196.203 (2) (a) No person may commence providing service as an alternative
4 telecommunications utility unless the person petitions for and the commission issues
5 a ~~determination~~ certification that the person is an alternative telecommunications
6 utility or unless the person is a telecommunications utility for which the commission
7 issues an order under s. 196.50 (2) (j) 1. a.

8 **(6)** The commission shall maintain information on ~~authorized~~ certified
9 alternative telecommunications utilities and on applicants for alternative
10 telecommunications utility status certification and make that information available
11 to any person, upon request.

12 **SECTION 43.** 196.203 (2) (b) of the statutes is created to read:

13 196.203 (2) (b) Except for an alternative telecommunications utility that is a
14 local government telecommunications utility, certification as an alternative
15 telecommunications utility shall be on a statewide basis and any certification issued
16 by the commission before the effective date of this paragraph [LRB inserts date],
17 to an alternative telecommunications utility that is not a local government
18 telecommunications utility is considered amended to be a statewide certification.

19 **SECTION 44.** 196.203 (2) (c) of the statutes is created to read:

20 196.203 (2) (c) An alternative telecommunications utility may provide notice
21 to the commission to maintain certification as an alternative telecommunications
22 utility but to recertify the alternative telecommunications utility and impose on the
23 alternative telecommunications utility only those provisions of this chapter specified
24 in this paragraph. No later than 30 days after receiving notice under this paragraph,
25 the commission shall issue an order granting recertification and imposing on the

1 alternative telecommunications utility those provisions of this chapter specified in
2 sub. (4m) (a) that are imposed on all alternative telecommunications utilities under
3 sub. (3). ~~The commission may impose a provision of this chapter specified in sub.~~
4 ~~(4m) (b) or (c) if required by the public interest.~~ An alternative telecommunications
5 utility for which an order of recertification is issued is subject to sub. (1g). The
6 granting of the recertification shall operate to terminate the alternative
7 telecommunications utility's prior certification, and all regulatory requirements
8 related to the prior certification, including all such requirements imposed by the
9 certification and all requirements imposed by the commission, whether by statute
10 or commission rule or order, on the alternative telecommunications utility are
11 terminated on the effective date of the order.

12 **SECTION 45.** 196.203 (2) (d) of the statutes is created to read:

13 196.203 (2) (d) The commission may deny a petition for certification as an
14 alternative telecommunications utility described in s. 196.01 (1d) (f) if the
15 commission finds that the petitioner does not have the financial, managerial, or
16 technical capabilities to provide its proposed services or to comply with conditions
17 that the commission is authorized to impose under sub. (3).

18 **SECTION 46.** 196.203 (3) (a) of the statutes is renumbered 196.203 (3) and
19 amended to read:

20 196.203 (3) In response to a petition from any interested person, or upon its
21 own motion, the commission shall determine whether the public interest requires
22 that ~~any~~ a provision of ~~ch. 201~~ or this chapter specified in sub. (4m) be imposed on
23 a person providing or proposing to provide service as an alternative
24 telecommunications utility ~~in a relevant market~~. In making this determination, the
25 commission may consider factors including ~~the quality of service, customer~~

1 ~~complaints, concerns about the effect on customers of local exchange~~
2 ~~telecommunications utilities and the extent to which similar services are available~~
3 from alternative sources. If the commission imposes a provision of this chapter
4 specified in sub. (4m) (a) on an alternative telecommunications utility under this
5 subsection, the commission shall impose the same provision at the same level of
6 regulation on all other alternative telecommunications utilities.

7 SECTION 47. 196.203 (3) (b) of the statutes is repealed.

8 SECTION 48. 196.203 (3) (c) of the statutes is repealed.

9 SECTION 49. 196.203 (3) (d) of the statutes is repealed.

10 SECTION 50. 196.203 (3) (dm) of the statutes is repealed.

11 SECTION 51. 196.203 (3) (e) of the statutes is repealed.

12 SECTION 52. 196.203 (4) of the statutes is repealed.

13 SECTION 53. 196.203 (4m) of the statutes is created to read:

14 196.203 (4m) (a) The commission may impose s. 196.01, 196.02 (1), (4), or (5),
15 196.04, 196.135, 196.14, 196.197, 196.199, 196.207, 196.208, 196.209, 196.218,
16 196.219 (1), (2) (b), (c), or (d), (2r), (3) (a), (d), (j), (m), (n), or (o), 196.25, 196.26, 196.39,
17 196.395, 196.40, 196.41, 196.43, 196.44, 196.65, 196.66, 196.81, 196.85, 196.858, or
18 196.859 on an alternative telecommunications utility.

19 (b) ~~The~~ commission may, with respect only to switched access services, impose
20 s. 196.03 (1) or (6) or 196.37 on an alternative telecommunications utility.

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

INSERT 24-19

INSERT 25-3

1 (d) An alternative telecommunications utility certified pursuant to s. 196.50 (2)
2 (j) 1. a. shall be subject, with respect only to wholesale telecommunications services,
3 to all provisions in pars. (a) and (c).

4 SECTION 54. 196.203 (5) of the statutes is amended to read:

5 196.203 (5) The commission may establish a reasonable fee schedule and may
6 assess an alternative telecommunications utility to cover the cost of making a
7 certification or other determination under this section.

8 SECTION 55. 196.204 (title) of the statutes is repealed and recreated to read:

9 **196.204 (title) Local government telecommunications utilities.**

10 SECTION 56. 196.204 (1) of the statutes is repealed.

11 SECTION 57. 196.204 (2) of the statutes is repealed.

12 SECTION 58. 196.204 (3) of the statutes is repealed.

13 SECTION 59. 196.204 (4) of the statutes is repealed.

14 SECTION 60. 196.204 (5) (ag) of the statutes is renumbered 196.204 (1m), and
15 196.204 (1m) (intro.), as renumbered, is amended to read:

16 196.204 (1m) (intro.) In this ~~subsection~~ section:

17 SECTION 61. 196.204 (5) (ar) of the statutes is renumbered 196.204 (2m), and
18 196.204 (2m) (a), (b) (intro.) and (c) (intro.), as renumbered, are amended to read:

19 196.204 (2m) (a) ~~In addition to the other requirements of this section, each~~
20 Each telecommunications service, relevant group of services and basic network
21 function offered or used by a local government telecommunications utility shall be
22 priced to exceed its total service long-run incremental cost. ~~The commission may~~
23 ~~waive the applicability of this subdivision to a nongovernmental~~
24 ~~telecommunications utility's basic local exchange service if the commission~~
25 ~~determines that a waiver is consistent with the factors under s. 196.03 (6).~~

1 (b) (intro.) For purposes of ~~subd. 1. par. (a)~~, the total service long-run
2 incremental cost of a local government telecommunications utility shall take into
3 account, by imputation or allocation, equivalent charges for all taxes, pole rentals,
4 rights-of-way, licenses, and similar costs that are incurred by nongovernmental
5 telecommunications utilities. This ~~subdivision paragraph~~ does not apply to a local
6 government telecommunications utility that is subject to the exemption under s.
7 66.0422 (3n). This ~~subdivision paragraph~~ also does not apply to a
8 telecommunications service, relevant group of services, or basic network function if
9 all of the following conditions apply:

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

14 SECTION 62. 196.204 (5) (b) of the statutes is repealed.

15 SECTION 63. 196.204 (6) of the statutes is repealed.

16 SECTION 64. 196.205 of the statutes is repealed.

17 SECTION 65. 196.206 of the statutes is created to read:

18 196.206 ~~Interconnected voice over Internet protocol service.~~ ^{-enabled} (1) ^{9b}

19 EXEMPTION. ~~Interconnected voice over Internet protocol service~~ ^(ca) is not subject to ch.
20 201 or this chapter, except as provided in this section, and except as ~~provided~~ in ss.

21 ~~ss. 196.025 (6), 196.218 (3), and 196.859, and except as required for the~~ ^{INSEAT 26-21}
22 ~~commission to enforce ss. 196.016, 196.025 (6), 196.218 (3), and 196.859.~~

23 3 ² (2) UNIVERSAL SERVICE FUND. ~~A communications provider, as defined in s.~~
24 ~~196.025 (6) (a) 1,~~ ^{An entity} that provides ~~interconnected voice over Internet protocol~~ ^{-enabled} service
25 in this state shall ~~make contributions~~ ^{and that contributes} to the universal service fund based on its

INSEAT 26-18

-enabled

9b

(1) 2

INSEAT 26-21

INSEAT 26-20

and that contributes

shall calculate such

1 revenues from providing such service. The revenues shall be calculated using direct
2 assignment, a provider-specific traffic study, the inverse of the interstate
3 jurisdictional allocation established by the federal communications commission for
4 the purpose of federal universal service assessments, or any other reasonable
5 assignment. Direct assignment or traffic studies shall be based on the primary
6 physical service address identified by the customer.

INSEPT 27-6

7 (3) INTRASTATE SWITCHED ACCESS RATES. Unless otherwise provided under
8 federal law, interconnected voice over Internet protocol services shall be subject to
9 intrastate switched access charges to the same extent that telecommunications
10 services are subject to such charges.

11 SECTION 66. 196.212 of the statutes is created to read:

12 196.212 Switched access rates. (1) DEFINITIONS. In this section:

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

17 (b) "Incumbent local exchange carrier" has the meaning given in 47 USC 251
18 (h).

19 (c) "Switched access rates" means the rates, rate elements, and rate structure,
20 including all applicable fixed and traffic sensitive charges, that a local exchange
21 carrier charges for the provision of switched access services.

22 (d) "Switched access services" means the offering of switched access to a local
23 exchange network for the purpose of enabling a telecommunications provider to
24 originate or terminate telecommunications service within the local exchange.

INSEPT 28-1A

INSEPT 28-1B

1 (2) REDUCTIONS A telecommunications provider shall reduce its intrastate
2 switched access rates to no higher than the telecommunications provider's rates for
3 interstate switched access services as follows:

4 (a) Beginning on the effective date of this paragraph [LRB inserts date], the
5 telecommunications provider may not increase its intrastate switched access rates,
6 or charge intrastate switched access rates higher than the amount the
7 telecommunications provider charged for such switched access services on January
8 1, 2011, ~~except for an increase that results in intrastate switched access rates that~~
9 ~~are no higher than the telecommunications provider's rates for interstate switched~~
10 ~~access services.~~

INSEPT 28-11

11 (b) No later than ~~January~~ 2011, the telecommunications provider must reduce
12 its intrastate switched access rates by an amount equal to 50 percent of the difference
13 between its intrastate switched access rates in effect prior to the reduction and its
14 interstate switched access rates in effect prior to the reduction.

INSEPT 28-15

15 (c) No later than ~~January~~ 2012, the telecommunications provider must further
16 reduce its intrastate switched access rates by an amount equal to 50 percent of the
17 difference between its intrastate switched access rates in effect prior to the reduction
18 and its interstate switched access rates in effect prior to the reduction.

INSEPT 28-19

19 (d) No later than ~~July 1, 2016~~, the telecommunications provider must reduce
20 its intrastate switched access rates to mirror its interstate switched access rates in
21 effect prior to the reduction.

INSEPT 28-21

22 (3) APPLICABILITY. This section applies to all of the following
23 telecommunications providers:

24 (a) Any incumbent local exchange carrier that, with any affiliates that are
25 incumbent local exchange carriers operating in the state, has 150,000 or more access

INSEPT 28-18

INSERT 29-4

1 lines in use in this state as of the effective date of this paragraph ... [LRB inserts
2 date].

3 (b) Any telecommunications provider that is not an incumbent local exchange
4 carrier.

5 SECTION 67. 196.213 of the statutes is repealed.

6 SECTION 68. 196.215 of the statutes is repealed.

7 SECTION 69. 196.218 (1) (a) of the statutes is created to read:

8 196.218 (1) (a) "Essential telecommunications services" means the services or
9 functionalities listed in 47 CFR 54.101 (a) as of January 1, 2010.

Provided to
end users

10 SECTION 70. 196.218 (3) (a) 3m. of the statutes is amended to read:

11 196.218 (3) (a) 3m. Contributions under this paragraph may be based only on
12 the gross operating revenues from the provision of broadcast services identified by
13 the commission under subd. 2. and on intrastate telecommunications services in this
14 state of the telecommunications providers subject to the contribution. Contributions
15 based on revenues from interconnected voice over Internet protocol service shall be
16 calculated as provided under s. 196.206 (d). 3

INSERT
29-14

17 SECTION 71. 196.218 (3) (f) of the statutes is amended to read:

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

INSEAT 30-10

1 commission shall provide telecommunications utilities the information necessary to
2 identify such amounts on customer bills.

3 SECTION 72. 196.218 (4) of the statutes is repealed and recreated to read:

4 196.218 (4) ESSENTIAL TELECOMMUNICATIONS SERVICES. (a) Each
5 telecommunications provider that is designated as an eligible telecommunications
6 carrier pursuant to 47 USC 214 (e) (2) shall make available to its customers all
7 essential telecommunications services. A telecommunications provider may satisfy
8 this subsection by providing essential telecommunications services itself or through
9 an affiliate and in either case may provide essential telecommunications services
10 through the use of any available technology or mode.

11 SECTION 73. 196.218 (5r) (a) 4. of the statutes is amended to read:

12 196.218 (5r) (a) 4. An assessment of how ~~successful investments identified in~~
13 ~~s. 196.196 (5) (f),~~ assistance provided by the universal service fund, ~~and price~~
14 ~~regulation~~ and other alternative incentive regulations of telecommunications
15 utilities designed to promote competition have been in advancing the public interest
16 goals identified under s. 196.03 (6), and recommendations for further advancing
17 those goals.

18 SECTION 74. 196.219 (1) (b) of the statutes is amended to read:

19 196.219 (1) (b) "Local exchange service" ~~has the meaning given in s. 196.50 (1)~~
20 ~~(b) 1. includes access service, basic local exchange service, and business access line~~
21 and usage service within a local calling area.

22 SECTION 75. 196.219 (2) (a) of the statutes is amended to read:

23 196.219 (2) (a) Notwithstanding any exemptions identified in this chapter
24 except s. ss. 196.202, 196.203, 196.206, and 196.50, a telecommunications utility or
25 provider shall provide protection to its consumers under this section unless

1 exempted in whole or in part by rule or order of the commission under this section.
2 The commission shall promulgate rules that identify the conditions under which
3 provisions of this section may be suspended.

4 **SECTION 76.** 196.219 (2m) of the statutes is repealed.

5 **SECTION 77.** 196.219 (2r) of the statutes is created to read:

6 196.219 (2r) SWITCHED ACCESS SERVICE RATES. Any reduction in switched access
7 service rates ordered by the commission prior to the effective date of this subsection
8 [LRB inserts date], including any reduction ordered pursuant to s. 196.195, shall
9 remain effective unless modified by the commission in a subsequent order, or unless
10 the ordered reduction is inconsistent with the requirements of s. 196.212.

11 **SECTION 78.** 196.219 (3) (h) of the statutes is repealed.

12 **SECTION 79.** 196.26 (1) (a) of the statutes is amended to read:

13 196.26 (1) (a) A complaint filed with the commission that any rate, toll, charge,
14 or schedule, joint rate, regulation, measurement, act, or practice relating to the
15 provision of heat, light, water, or power, ~~or telecommunications~~ service is
16 unreasonable, inadequate, unjustly discriminatory, or cannot be obtained.

17 **SECTION 80.** 196.26 (4) of the statutes is repealed.

18 **SECTION 81.** 196.28 (4) of the statutes is amended to read:

19 196.28 (4) This section does not apply to rates, tolls or charges of a
20 telecommunications cooperative, an unincorporated telecommunications
21 cooperative association, or a small telecommunications utility ~~except as provided in~~
22 ~~s. 196.205 or 196.215 (2).~~

23 **SECTION 82.** 196.31 (1m) of the statutes is amended to read:

196.219 31-10

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

4 **SECTION 83.** 196.37 (3) of the statutes is amended to read:

5 196.37 **(3)** Any public utility to which an order under this section applies shall
6 make such changes in schedules on file under s. 196.19 to make the schedules
7 conform to the order. The public utility may not make any subsequent change in
8 rates, tolls or charges without the approval of the commission, ~~except as provided in~~
9 ~~s. 196.205 or 196.215 (2).~~

10 **SECTION 84.** 196.37 (4) of the statutes is amended to read:

11 196.37 **(4)** This section does not apply to rates, tolls or charges of a
12 telecommunications cooperative, an unincorporated telecommunications
13 cooperative association, or a small telecommunications utility ~~except as provided in~~
14 ~~s. 196.205 or 196.215 (2).~~

15 **SECTION 85.** 196.49 (1) (ag) of the statutes is repealed.

16 **SECTION 86.** 196.49 (3) (b) (intro.) of the statutes is amended to read:

17 196.49 **(3)** (b) (intro.) ~~Except as provided in par. (d), the~~ The commission may
18 require by rule or special order under par. (a) that no project may proceed until the
19 commission has certified that public convenience and necessity require the project.
20 The commission may refuse to certify a project if it appears that the completion of
21 the project will do any of the following:

22 **SECTION 87.** 196.49 (3) (d) of the statutes is repealed.

23 **SECTION 88.** 196.50 (title) of the statutes is amended to read:

24 **196.50** (title) **Competing public utilities; indeterminate permits,**
25 **telecommunications; telecommunications utility certification.**

1 **SECTION 89.** 196.50 (1) (b) 1. and 2. of the statutes are repealed.

2 **SECTION 90.** 196.50 (1) (b) 3. of the statutes is renumbered 196.50 (1) (b).

3 **SECTION 91.** 196.50 (2) (a) of the statutes is amended to read:

4 196.50 (2) (a) Alternative telecommunications utilities shall be certified under
5 s. 196.203. All Except as provided in par. (j) 1. a., all other telecommunications
6 utilities shall be certified under this subsection.

7 **SECTION 92.** 196.50 (2) (b) of the statutes is amended to read:

8 196.50 (2) (b) A certificate, franchise, license or permit, indeterminate or
9 otherwise, in effect on September 1, 1994, for a telecommunications utility shall
10 remain in effect and shall have the effect of a certificate of authority. A
11 telecommunications utility is not required to apply for a new certificate of authority
12 to continue offering or providing service to the extent of the prior authorization. Each
13 telecommunications utility, including telecommunications cooperatives and
14 unincorporated telecommunications cooperative associations, shall have on file with
15 the commission under s. ~~196.19 a tariff that sets forth the rates, terms and conditions~~
16 ~~for all services provided~~ and a map that defines the geographical limits of the service
17 territory that the telecommunications utility is obliged to serve.

18 **SECTION 93.** 196.50 (2) (f) of the statutes is amended to read:

19 196.50 (2) (f) The commission shall issue a certificate of authority or an
20 amended certificate of authority if it finds, after notice and opportunity for hearing,
21 that the applicant possesses sufficient technical, financial and managerial resources
22 to provide telecommunications service to any person within the identified geographic
23 area. In making this determination, the commission shall consider the factors
24 identified in s. 196.03 (6). ~~The commission may order the applicant to satisfy any~~

1 ~~conditions that the commission considers to be necessary to protect the public~~
2 ~~interest, including structural safeguards.~~

3 **SECTION 94.** 196.50 (2) (g) 3. of the statutes is repealed.

4 **SECTION 95.** 196.50 (2) (h) of the statutes is repealed.

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

6 196.50 (2) (i) A telecommunications utility certified under this subsection is
7 exempt from all provisions of ch. 201 and is exempt from s. 196.02 (2); s. 196.03,
8 except with respect to wholesale telecommunications services; ss. 196.05, 196.06,
9 196.07, 196.09, 196.10, 196.12, 196.13, 196.19, 196.20, 196.21, and 196.22; s. 196.28,
10 except with respect to wholesale telecommunications services; s. 196.37, except with
11 respect to wholesale telecommunications services; ss. 196.49, 196.52, 196.58, 196.60,
12 and 196.78; and s. 196.79; except that, with respect only to its switched access
13 services, a telecommunications utility certified under this subsection with 50,000 or
14 fewer access lines in this state as of the effective date of this paragraph [LRB
15 inserts date], is not exempt from s. 196.03; and except that, with respect only to its
16 switched access services, a telecommunications utility certified under this
17 subsection with more than 50,000 and fewer than 150,000 access lines in this state
18 as of the effective date of this paragraph [LRB inserts date], is not exempt from
19 ss. 196.03 and 196.37. The intrastate access service rates of a telecommunications
20 utility with 150,000 or more access lines in this state as of the effective date of this
21 paragraph [LRB inserts date], may not exceed the telecommunications utility's
22 interstate access service rates for similar access services, except that such a
23 telecommunications utility shall not assess an intrastate carrier common line charge
24 or a substitute charge. Except to enforce this paragraph and s. 196.212, the
25 commission may not review or set the access rates for a telecommunications utility

INSERT 34-19

INSEPT 35-2

1 with 150,000 or more access lines in this state as of the effective date of this
2 paragraph [LRB inserts date].

3 **SECTION 97.** 196.50 (2) (j) of the statutes is created to read:

4 196.50 (2) (j) 1. A telecommunications utility certified under this subsection
5 may do any of the following:

6 a. Provide notice to the commission to terminate the certification under this
7 subsection and certify the telecommunications utility as an alternative
8 telecommunications utility under s. 196.203. No later than 30 days after receiving
9 notice under this subd. 1. a., the commission shall issue an order granting a
10 certification under s. 196.203. Except as provided in subds. 4. and 5., the granting
11 of such certification shall operate to terminate the certification under this subsection
12 and all regulatory requirements related to the certification under this subsection,
13 including all such requirements imposed by the certification under this subsection
14 or imposed by order or otherwise by the commission.

15 b. Provide notice to the commission to recertify the telecommunications utility
16 under this subsection and impose on the telecommunications utility only those
17 provisions of this chapter specified in this paragraph. No later than 30 days after
18 receiving notice under this subd. 1. b., the commission shall issue an order granting
19 recertification under this subsection and imposing on the telecommunications utility
20 those provisions of this chapter specified in s. 196.203 (4m) (a) that are imposed on
21 all alternative telecommunications utilities under s. 196.203 (3). The
22 telecommunications utility shall be exempt from all provisions of ch. 201 and this
23 chapter, except ss. 196.025 (6), 196.206, and 196.212, and except as provided in
24 subds. 4. and 5., and except as provided in the order under this subd. 1. b.; and except
25 that, if the telecommunications utility has 50,000 or fewer access lines in this state

196.191,

INSEPT 36-12

INSEPT
36-6

1 as of the effective date of this subd. 1. b. [LRB inserts date], then, only with respect
2 to its switched access services, the telecommunications utility is not exempt from s.
3 196.03; and except that, if the telecommunications utility has more than 50,000 and
4 fewer than 150,000 access lines in this state as of the effective date of this subd. 1.
5 b. [LRB inserts date], then, only with respect to its switched access services, the
6 telecommunications utility is not exempt from ss. 196.03 and 196.37. Except as
7 provided in subds. 4. and 5., the granting of the recertification shall operate to
8 terminate the telecommunications utility's prior certification, and all regulatory
9 requirements related to the prior certification, including all such requirements
10 imposed by the certification and all requirements imposed by the commission,
11 whether by statute or commission rule or order, on the telecommunications utility
12 are terminated on the effective date of the order.

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

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

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

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

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

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

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

5 5. This paragraph does not terminate any order of the commission regarding
6 interconnection, unbundling, collocation, or any other obligation under 47 USC 251,
7 or regarding wholesale telecommunications services.

8 **SECTION 98.** 196.503 of the statutes is created to read:

9 **196.503 Telecommunications provider of last resort obligations. (1)**

10 DEFINITIONS. In this section:

11 (a) "Basic voice service" means the provision to residential customers of 2-way
12 voice communication within a local calling area. "Basic voice service" includes
13 extended community calling and extended area service. "Basic voice service" does
14 not include any discretionary or optional services that are provided to a residential
15 customer, even if provided in a bundle or package with basic voice service.

16 (b) "Incumbent local exchange carrier" has the meaning given in 47 USC 251

17 (h).

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

23 (b) An incumbent local exchange carrier may satisfy its obligations under par.

24 (a) through an affiliate and through the use of any available technology or mode.

INSERT 37-17

INSERT
38-2

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

3 (b) The commission shall grant a waiver requested under par. (a) for a local
4 exchange area if any of the following are satisfied:

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

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

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

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

20 2. The commission shall grant a waiver based on par. (b) 2. as soon as the
21 commission verifies that the commission has previously made the finding specified
22 in par. (b) 2., but no later than 20 days after the filing of the waiver request. If the
23 commission fails to grant a waiver request based on par. (b) 2. within 20 days of its
24 filing, the waiver request is considered granted by operation of law. If the

1 commission denies a waiver based on par. (b) 2., the commission shall issue a written
2 decision identifying the reasons for its denial.

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

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

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

13 **SECTION 99.** 196.52 (3) (b) 1. of the statutes is amended to read:

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

24 **SECTION 100.** 196.52 (3) (c) (intro.) of the statutes is amended to read:

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

4 **SECTION 101.** 196.52 (5) (a) of the statutes is renumbered 196.52 (5).

5 **SECTION 102.** 196.52 (5) (b) of the statutes is repealed.

6 **SECTION 103.** 196.52 (6) of the statutes is amended to read:

7 196.52 (6) If the commission finds upon investigation that a public utility, ~~other~~
8 ~~than a telecommunications utility,~~ is giving effect to a contract or arrangement
9 without the commission's approval under this section, the commission shall issue a
10 summary order directing that public utility to cease and desist from making any
11 payments, receiving compensation, providing any service or otherwise giving any
12 effect to the contract or arrangement until the contract or arrangement receives the
13 approval of the commission. The circuit court of Dane County may enforce the order
14 to cease and desist by appropriate process, including the issuance of a preliminary
15 injunction, upon the suit of the commission.

16 **SECTION 104.** 196.52 (9) (e) of the statutes is amended to read:

17 196.52 (9) (e) Notwithstanding sub. (5) ~~(a)~~, the commission may not modify or
18 terminate a leased generation contract approved under sub. (3) except as specified
19 in the leased generation contract or the commission's order approving the leased
20 generation contract.

21 **SECTION 105.** 196.60 (1) (a) of the statutes is amended to read:

22 196.60 (1) (a) ~~Except as provided under sub. (2), no~~ No public utility and no
23 agent, as defined in s. 196.66 (3) (a), or officer of a public utility, directly or indirectly,
24 may charge, demand, collect or receive from any person more or less compensation
25 for any service rendered or to be rendered by it in or affecting or relating to the

1 production, transmission, delivery or furnishing of heat, light, water,
2 ~~telecommunications~~ service or power or for any service in connection therewith, than
3 that prescribed in the published schedules or tariffs then in force, or established
4 under this chapter, or than it charges, demands, collects or receives from any other
5 person for a like contemporaneous service.

6 **SECTION 106.** 196.60 (2) of the statutes is repealed.

7 **SECTION 107.** 196.604 of the statutes is amended to read:

8 **196.604 Rebates, concessions and discriminations unlawful.** No person
9 may knowingly solicit, accept or receive any rebate, concession or discrimination
10 from a public utility for any service in or affecting or relating to the production,
11 transmission, delivery or furnishing of heat, light, water or power ~~or the conveying~~
12 ~~of telecommunications~~ messages within this state or for any connected service
13 whereby the service is rendered or is to be rendered free or at a rate less than the rate
14 named in the schedules and tariffs in force, or whereby any other service or
15 advantage is received. Any person violating this section shall be fined not less than
16 \$50 nor more than \$5,000 for each offense.

17 **SECTION 108.** 196.77 of the statutes is repealed.

18 **SECTION 109.** 196.79 (1) of the statutes is renumbered 196.79 and amended to
19 read:

20 **196.79 Reorganization subject to commission approval.** ~~Except as~~
21 ~~provided in sub. (2), the~~ The reorganization of any public utility shall be subject to
22 the supervision and control of the commission. No reorganization may take effect
23 without the written approval of the commission. The commission may not approve
24 any plan of reorganization unless the applicant for approval establishes that the plan
25 of reorganization is consistent with the public interest.

1 **SECTION 110.** 196.79 (2) of the statutes is repealed.

2 **SECTION 111.** 196.805 of the statutes is repealed.

3 **SECTION 112.** 196.975 (1) of the statutes is renumbered 196.975 (1r) and
4 amended to read:

5 196.975 (1r) One hundred fifty or more consumers, ~~as defined in s. 196.213 (1)~~
6 ~~(a) 1.~~, who are residents of the same local exchange area for telecommunications
7 service may file with the commission a petition requesting that commission staff, in
8 cooperation with the affected telecommunications utilities and telecommunications
9 carriers, petition the appropriate federal district court to include their local exchange
10 area in a different local access and transport area. The petitioners shall include with
11 the petition information explaining why the current boundaries of the local access
12 and transport area which includes their local exchange area does not adequately
13 reflect areas of common social, economic and other concerns.

14 **SECTION 113.** 196.975 (1g) of the statutes is created to read:

15 196.975 (1g) In this section, “consumer” means a person billed for one or more
16 local telecommunications service access lines not to exceed one person per access
17 line. A person billed for more than one access line may not be considered a consumer
18 for each access line for which he or she is billed.

19 **SECTION 114.** 196.975 (2) of the statutes is amended to read:

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

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INSERT 10-6:

SECTION 1. 182.017 (1g) (e) of the statutes is created to read:

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

***NOTE: Significance: the term "telecommunications service" is used in s. 182.017 (1g) (b) 1. and 4. Defined term is same as s. 196.01 (9m), except it does not include last sentence: "Telecommunications service" does not include cable service or broadcast service.

INSERT 10-12:

SECTION 2. 196.01 (9m) of the statutes is amended to read:

196.01 (9m) "Telecommunications service" means the offering for sale of the conveyance of voice, ~~data or other information~~ communication at any frequency over any part of the electromagnetic spectrum, including the sale of ~~service for collection, storage, forwarding,~~ switching and delivery incidental to such communication ~~and including the regulated sale of customer premises equipment.~~ "Telecommunications service" does not include cable service or broadcast service. "Telecommunications service" includes switched access service, as defined in s. 196.212.

History: 1977 c. 29, 418; 1981 c. 390; 1983 a. 27, 53, 76, 192, 425, 538; 1985 a. 79, 1985 a. 297 ss. 14 to 22, 39; 1987 a. 27; 1989 a. 344; 1993 a. 121, 496; 1995 a. 46, 409; 1997 a. 184, 218, 229; 1999 a. 9, 32, 53; 1999 a. 150 s. 672; 2001 a. 16; 2005 a. 441; 2007 a. 42.

***NOTE: I added "communication" after "voice," which I think is consistent with the reference to "such communication" at the end of the first sentence. Per David Chorzempa conversation on 3-11, should be okay

***NOTE: Check cross reference to s. 196.212.

INSERT 12-3:

including an attachment to a pole,

INSERT 14-24:

1 , except that the telecommunications utility or alternative telecommunications
2 utility may not increase its switched access rates if it chooses to withdraw its tariff
3 for switched access services

****NOTE: Is "switched access services" defined? Per Chorzempa 3-11 conversation,
okay to create a definition in s. 196.01 that applies throughout the chapter.

4 **INSERT 18-10:**

****NOTE: What is the significance of adding reference to s. par. (j)?

5 **INSERT 24-19:**

6 In addition to the requirements under s. 196.212, the

7 **INSERT 25-3:**

8 (e) An alternative telecommunications utility certified pursuant to s. 196.50 (2)
9 (j) 1. a. shall be subject, with respect only to its switched access services as defined
10 in s 196.212, to the provisions in s. 196.191. For its services other than switched
11 access services, such an alternative telecommunications utility may elect to be
12 subject to s. 196.191.

****NOTE: Review the above. Why refer to as defined in? Aren't there other uses
of the term that don't specify as defined in? And what is this provision doing here, as
opposed to s. 196.191?

****NOTE: Check cross references: any issues with creating new par. (e)?

13 **INSERT 26-18:**

14 **(1) DEFINITION.** In this section, "Internet protocol-enabled service" means any
15 service, capability, functionality, or application provided using Internet protocol, or
16 any successor protocol, that enables an end user to send or receive a voice, data, or
17 video communication in Internet protocol format or any successor format.

****NOTE: The instructions provide that "Internet protocol-enabled service" or
"IP-enabled service" has the above meaning. The instruction also provide that
interconnected voice over Internet protocol service is an IP-enabled service. There is no
need to say that 3 different terms have the same meaning. Instead, I have defined and
used only one term, "Internet protocol-enabled service." Per Chorzempa 3-11
conversation, my changes should be okay.

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INSERT 26-20:

that Internet protocol-enabled service is subject to

INSERT 26-21:

Nothing in this section shall be construed to require or prohibit the payment of switched access charges or other intercarrier compensation.

****NOTE: Why is it necessary to say that nothing in the section shall be construed to require or prohibit the above?

****NOTE: The instructions would remove the phrase, "except as provided in this section," but I retained the phrase because I think it is logically necessary.

****NOTE: What is the significance of deleting the reference to s. 196.016?

(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, regulation, standard, or other provision having the force or effect of law that regulates, or has the effect of regulating, the entry, rates, terms or conditions for Internet protocol-enabled service.

****NOTE: I removed the reference to law, as the PSC does not have the authority to enact a law. Likewise, the PSC does not adopt ordinances, so I deleted the reference to ordinances. Finally, in Wisconsin, agencies adopt rules, rather than regulations. However, I retained the reference to regulation because the term "regulation" may have plain English meanings in addition to technical rule-like definition. Per Chorzempa 3-11 conversation, my changes should be okay.

****NOTE: What exactly is meant by "the entry ... for Internet protocol-enabled service"? Perhaps the wording should be clarified. Per Chorzempa 3-11 conversation, check federal law use of term "entry" regarding wireless preemption.

INSERT 27-6:

****NOTE: What does the above do? Who makes the contributions described above? Are the contributions required? By what authority? Per Chorzempa 3-11 conversation, contributions are required under s. 196.218. Above language is comfort language for one parties who is negotiating for the bill. So, probably okay as is, in that above does not require contributions, as s. 196.218 does. Verify that.

INSERT 28-1A:

FOR NONINCUMBENTS

INSERT 28-1B:

that is not an incumbent local exchange carrier

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INSERT 28-11:

one year after the effective date of this paragraph [LRB inserts date]

INSERT 28-15:

two years after the effective date of this paragraph [LRB inserts date]

INSERT 28-18:

(d) No later three years after the effective date of this paragraph [LRB inserts date], the telecommunications provider must reduce its intrastate switched access rates to mirror its interstate switched access rates in effect prior to the reduction and, beginning no later than that date, may not charge intrastate switched access rates higher than its interstate switched access rates.

(3) REDUCTIONS FOR CERTAIN INCUMBENT LOCAL EXCHANGE CARRIERS. A

telecommunications provider that is an incumbent local exchange carrier that, with any affiliates that are incumbent local exchange carriers operating in the state, in total had 150,000 or more access lines in use in this state as of January 1, 2010, shall reduce its intrastate switched access rates to no higher than the incumbent local exchange carrier's rates for interstate switched access services as follows:

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

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

1 (c) No later than two years after the effective date of this paragraph [LRB
2 inserts date], the incumbent local exchange carrier must further reduce its
3 intrastate switched access rates by an amount equal to 33% 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 (d) No later than three years after the effective date of this paragraph [LRB
7 inserts date], the incumbent local exchange carrier must further reduce its
8 intrastate switched access rates by an amount equal to 50% percent of the difference
9 between its intrastate switched access rates in effect prior to the reduction and its
10 interstate switched access rates in effect prior to the reduction.

11 **INSERT 28-19:**

12 four years after the effective date of this paragraph ... [LRB inserts date]

13 **INSERT 28-21:**

14 and, beginning no later than that date, may not charge intrastate switched access
15 rates higher than its interstate switched access rates

16 **INSERT 29-4:**

17 (4) COMMISSION REVIEW LIMITED. (a) Notwithstanding any other provision of
18 this chapter, the requirements of subs. (2) and (3) govern the rates that
19 telecommunications providers subject to those requirements may charge for
20 intrastate switched access services. Except as required to enforce this section, the
21 commission may not review or set the rates for intrastate switched access services
22 of a telecommunications provider subject to the requirements of subs. (2) and (3).

****NOTE: Why is the above necessary? Subs. (2) and (3) govern the rates, so why
restate the obvious?

1 (b) For an incumbent local exchange carrier not subject to the requirements of
 2 subs. (2) or (3), during the 3-year period beginning on the effective date of this
 3 paragraph [LRB inserts date], the commission may not order a reduction in the
 4 incumbent local exchange carrier's switched access rates, provided that the
 5 incumbent local exchange carrier does not seek to increase its switched access rates.

****NOTE: I restructured the logic. Also, what is exactly required here? Provided that the ILEC does not "seek" to increase rates? How does ILEC "seek" to do that?

6 **INSERT 29-14:**

7 Wholesale services of any type provided by any telecommunications provider are not
 8 intrastate telecommunications service for purposes of this section.

****NOTE: I deleted "as defined in s. 196.01 (12w) or otherwise." First, the definition in s. 196.01 (12w) already applies throughout the chapter, so it applies here. Second, "or otherwise" is ambiguous. Defined otherwise by whom? Under what authority?

****NOTE: Is "intrastate..." defined? Exclude from definition?

****NOTE: Per Chorzempa 3-11 conversation, okay to rework above to refer to "wholesale service, including wholesale telecommunications service." Intent is to refer to services that may be in addition to the services that compose the defined term "wholesale telecommunications service."

9 **INSERT 30-10:**

10 (b) Notwithstanding par. (a), a commercial mobile radio service provider
 11 designated or seeking designation as an eligible telecommunications carrier for only
 12 federal universal service purposes shall not be subject to any state eligible
 13 telecommunications carrier requirements and shall only be subject to the federal
 14 requirements for eligible telecommunications carriers.

****NOTE: What does the above do? Per Chorzempa 3-11 conversation, wireless providers become eligible telecommunications carriers (ETCs) for funding from federal USF and do not seek funding as ETC from state USF. The FCC specifies who is an ETC and allows the state to impose additional requirements. See 47 USC 214. However, the PSC's requirements are not really relevant to wireless providers, as the state's additional requirements are relevant only for rural carriers. The PSC has stayed its ETC requirements with respect to wireless and the above is intended to codify that result.

****NOTE: I created a new subd. 2. in order to "notwithstand" subd. 1., which I think is preferable to saying "notwithstanding the foregoing."

****NOTE: Check cross references to par. (f).

1

INSERT 31-10:

****NOTE: The instructions would add, "in which case the requirements of that section shall control." That language is not necessary. If the ordered reduction is inconsistent with s. 196.212, then the ordered reduction does not apply and s. 196.212 would apply. There is no need to reiterate that s. 196.212 applies. Per Chorzempa 3-11 conversation, my conclusion should be okay.

2

INSERT 34-19:

3

Notwithstanding the preceding sentence, the requirements of s. 196.212 govern the rates that telecommunications providers subject to those requirements may charge for switched access services, as defined in s. 196.212.

4

5

6

INSERT 35-2:

****NOTE: In the "notwithstanding the preceding sentence" sentence, which switched access services defined for purposes of that sentence and not other sentences? How does that sentence relate to the sentences following it? Per Chorzempa 3-11 conversation, the intent is to have switched access rates subject to s. 196.212, but to have other aspects of the provision of switch access service subject to requirements specified in the above. Therefore, the above should clarify the distinction between PSC authority over rates versus other aspects of service.

7

INSERT 36-6:

8

Notwithstanding the preceding sentence, the requirements of s. 196.212 govern the rates that telecommunications providers subject to those requirements may charge for switched access services, as defined in s. 196.212.

9

10

11

INSERT 36-12:

****NOTE: What is the significance of adding reference to s. 196.191? Doesn't s. 196.191 already say that notwithstanding anything else, a telcom provider is subject to s. 196.191? Also, same issues regarding the "notwithstanding the preceding sentence" sentence.

12

INSERT 37-17:

****NOTE: The instructions add a definition for "universal service fund." However, that definition is not necessary. Although the term is defined for purposes of s. 196.218, that definition is also not necessary. Further, other provisions of this bill and ch. 196 use the term without a definition. If you do want to create a definition, you may want to create a definition in s. 196.01 that applies throughout all of ch. 196. Per Chorzempa 3-11 conversation, my conclusions should be okay.

13

INSERT 38-2:

1 If a waiver is granted, then the requesting incumbent local exchange carrier shall not
2 be eligible to receive moneys from the universal service fund for the purpose of
3 assisting customers of this state that have relatively high costs of
4 telecommunications service in obtaining affordable access to a basic set of essential
5 telecommunications services, as provided in s. 196.218 (5) (a) 1. The requesting
6 carrier may receive moneys from the universal service fund for any other purpose
7 specified in s. 196.218 (5), including any other purpose specified in s. 196.218 (5) (a)
8 1.

****NOTE: 196.218 (5) (a) 1.: "To assist customers located in areas of this state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services."