



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1698/2
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**SENATE AMENDMENT 2,
TO 2009 SENATE BILL 469**

March 19, 2010 – Offered by Senator PLALE.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 9: delete lines 9 to 11 and substitute “telecommunications
switched access service rates, and interconnected voice over Internet protocol
service”.

3 **2.** Page 2, line 12: delete “an appropriation”.

4 **3.** Page 7, line 1: delete lines 1 to 4.

5 **4.** Page 8, line 8: after “(j) 1.” insert “a.”.

6 **5.** Page 9, line 19: delete the material beginning with that line and ending with
page 14, line 9, and substitute:

7 “**196.191 Telecommunications utility and alternative**
8 **telecommunications utility tariffs. (1)** Notwithstanding anything in this

1 chapter to the contrary, any telecommunications utility, including an alternative
2 telecommunications utility, may do any of the following:

3 (a) Retain on file with the commission tariffs already on file with the
4 commission as of the effective date of this paragraph [LRB inserts date], showing
5 the rates, tolls, and charges which the telecommunications utility, including an
6 alternative telecommunications utility, has established as of the effective date of this
7 paragraph [LRB inserts date], for some or all of the services performed by the
8 telecommunications utility, including an alternative telecommunications utility,
9 within the state or for any service in connection therewith or performed by any
10 telecommunications utility, including an alternative telecommunications utility,
11 controlled or operated by the telecommunications utility, including an alternative
12 telecommunications utility.

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

15 (c) File with the commission new tariffs showing the rates, tolls, and charges
16 which the telecommunications utility, including an alternative telecommunications
17 utility, has established, as provided in the tariff filings, for some or all of the services
18 performed by the telecommunications utility, including an alternative
19 telecommunications utility, within the state or for any service in connection
20 therewith or performed by any telecommunications utility, including an alternative
21 telecommunications utility, controlled or operated by the telecommunications utility,
22 including an alternative telecommunications utility. If a telecommunications utility,
23 including an alternative telecommunications utility, files a new tariff under this
24 paragraph, all of the following apply:

1 1. The new tariff shall become effective on the date specified in the tariff, unless
2 the commission suspends the operation of the new tariff upon serving a written
3 notice of the suspension on the telecommunications utility, including an alternative
4 telecommunications utility, within 10 days after the date of filing. The notice shall
5 include a statement of the reason under subd. 2. upon which the commission believes
6 the tariff may be modified.

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

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

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

17 **(3)** Every telecommunications utility, including an alternative
18 telecommunications utility, that files a tariff with the commission under this section
19 shall include all terms and conditions that apply to the services specified in the tariff
20 and the rates charged or to be charged.

21 **(4)** A telecommunications utility, including an alternative telecommunications
22 utility, may withdraw a tariff for any service by providing notice to the commission.

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

1 (b) No change in a tariff which constitutes an increase in switched access
2 service rates may be made unless the change is consistent with the public interest
3 factors set forth in s. 196.03 (6) and the commission by order, after investigation and
4 opportunity for a hearing, approves the change, except that an increase in switched
5 access service rates to mirror interstate switched access service rates shall go into
6 effect on the 10th day after the change in the tariff is filed, unless the commission,
7 before that day, suspends the rate increase and initiates an investigation under this
8 paragraph.

9 (6) Nothing in this chapter prohibits a tariff for a service which permits a
10 telecommunications utility, including an alternative telecommunications utility, to
11 enter into an individual contract with an individual customer for that tariffed service
12 that includes rates, terms, and conditions that are different from those in the tariff.

13 (7) Except as provided in sub. (6), no telecommunications utility, including an
14 alternative telecommunications utility, may charge, demand, collect, or receive more
15 or less compensation for any service for which a tariff is filed under this section than
16 is specified in the tariff, as may at the time be in force, or demand, collect, or receive
17 any rate, toll, or charge for such service not specified in the tariff.

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

20 **6.** Page 14, line 10: delete the material beginning with that line and ending
with page 15, line 8, and substitute:

21 “**SECTION 13m.** 196.194 (1) of the statutes is repealed.

22 **SECTION 13q.** 196.194 (2) (title) of the statutes is repealed.

1 **SECTION 13s.** 196.194 (2) of the statutes is renumbered 196.194 and amended
2 to read:

3 **196.194 Public Gas utility individual contracts.** Nothing in ss. 196.03,
4 196.19, 196.20, 196.21, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the
5 commission from approving the filing of a tariff which permits a gas utility to enter
6 into an individual contract with an individual customer if the term of the contract
7 is no more than 5 years, or a longer period approved by the commission, and if the
8 commission determines that substitute gas services are available to customers or
9 potential customers of the gas utility and the absence of such a tariff will cause the
10 gas utility to be disadvantaged in competing for business. A tariff filed under this
11 ~~subsection~~ section shall include the condition that any such contract shall be
12 compensatory. The tariff shall include any other condition and procedure required
13 by the commission in the public interest. Within 20 days after a contract authorized
14 under this ~~subsection~~ section or an amendment to such a contract has been executed,
15 the gas utility shall submit the contract to the commission. The commission shall
16 give notice to any person, upon request, that a contract authorized under this
17 ~~subsection~~ section has been received by the commission. The notice shall identify the
18 gas utility that has entered into the contract. Within 6 months after receiving
19 substantial evidence that a contract may be noncompensatory, or upon its own
20 motion, the commission shall investigate and determine whether the contract is
21 compensatory. If the commission determines that the contract is noncompensatory,
22 the commission may make appropriate adjustments in the rates or tariffs of the gas
23 utility that has entered into the contract, in addition to other remedies under this
24 chapter. The dollar amount of the adjustment may not be less than the amount by
25 which the contract was found to be noncompensatory.”.

1 **7.** Page 15, line 18: delete “tariffing requirements under s. 196.194 (1) or”.

2 **8.** Page 18, line 5: delete “ss. 196.193, and 196.195” and substitute “ss. s.
3 196.193, ~~196.195~~”.

3 **9.** Page 18, line 6: delete “(12) ~~and 196.196~~” and substitute “(12) ~~and 196.196~~”.

4 **10.** Page 18, line 20: delete “subject to s.” and substitute “subject to s. ss.”.

5 **11.** Page 18, line 20: after “196.025 (6)” insert “and 196.206 and may elect to
6 subject itself to s. 196.191, and except that only with respect to its switched access
7 services an alternative telecommunications utility is subject to ss. 196.03 and
8 196.37”.

6 **12.** Page 19, line 9: after “(j) 1” insert “. a”.

7 **13.** Page 19, line 21: delete lines 21 and 22.

8 **14.** Page 19, line 22: after that line insert:

9 “**SECTION 36m.** 196.203 (2) (c) of the statutes is created to read:

10 196.203 (2) (c) An alternative telecommunications utility may provide notice
11 to the commission to maintain certification as an alternative telecommunications
12 utility but to recertify the alternative telecommunications utility and impose on the
13 alternative telecommunications utility only those provisions of this chapter specified
14 in sub. (4m) that are imposed on all alternative telecommunications utilities under
15 sub. (3). No later than 30 days after receiving notice under this paragraph, the
16 commission shall issue an order granting recertification and imposing on the
17 alternative telecommunications utility only those provisions of this chapter specified
18 in sub. (4m) that are imposed on all alternative telecommunications utilities under
19 sub. (3). An alternative telecommunications utility for which an order of

1 recertification is issued is subject to sub. (1g). The granting of the recertification
2 shall operate to terminate the alternative telecommunications utility’s prior
3 certification, and all regulatory requirements related to the prior certification,
4 including all such requirements imposed by the certification and all requirements
5 imposed by the commission, whether by statute or commission rule or order, on the
6 alternative telecommunications utility are terminated on the effective date of the
7 order.”.

8 **15.** Page 19, line 23: on lines 23 and 24, delete “(c)” and substitute “(d)”.

9 **16.** Page 20, line 8: delete “any provision of ch. 201 or a provision of this
chapter” and substitute “any a provision of ch. 201 or this chapter”.

10 **17.** Page 20, line 16: delete lines 16 and 17 and substitute “same provision at
the same level of regulation on all other alternative telecommunications utilities.”.

11 **18.** Page 21, line 3: before “(3) (a)” insert “(2r)”.

12 **19.** Page 21, line 3: delete “(h)”.

13 **20.** Page 21, line 5: delete “or 196.858” and substitute “196.858, or 196.859”.

14 **21.** Page 22, line 18: delete lines 18 to 24 and substitute:

15 “**SECTION 55m.** 196.205 of the statutes is repealed.”.

16 **22.** Page 23, line 3: after “in this section” insert “, and except as provided in
ss. 196.025 (6), 196.218 (3), and 196.859, and except as required for the commission
to enforce ss. 196.025 (6), 196.218 (3), and 196.859”.

17 **23.** Page 23, line 4: delete “telecommunications provider” and substitute
“communications provider, as defined in s. 196.025 (6) (a) 1.”.

1 **24.** Page 23, line 14: delete lines 14 and 15 and substitute “interconnected
voice over Internet protocol services shall be subject to intrastate access charges to
the same extent that telecommunications services are subject to such charges.”.

2 **25.** Page 23, line 16: delete the material beginning with that line and ending
with page 24, line 14.

3 **26.** Page 24, line 21: delete lines 21 to 23.

4 **27.** Page 25, line 8: delete lines 8 and 9 and substitute:

5 “196.218 (3) (f) ~~Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)~~
6 ~~and (6), 196.213 and 196.215, a~~ A telecommunications utility that provides local”.

7 **28.** Page 26, line 1: delete lines 1 to 3.

8 **29.** Page 26, line 8: delete “and price” and substitute “~~and price~~”.

9 **30.** Page 26, line 9: delete “regulation and” and substitute “~~regulation~~ and”.

10 **31.** Page 26, line 13: delete lines 13 to 21.

11 **32.** Page 27, line 1: before that line insert:

12 “**SECTION 71e.** 196.219 (2) (a) of the statutes is amended to read:

13 196.219 (2) (a) Notwithstanding any exemptions identified in this chapter
14 except s. ss. 196.202, 196.203, 196.206, and 196.50, a telecommunications utility or
15 provider shall provide protection to its consumers under this section unless
16 exempted in whole or in part by rule or order of the commission under this section.
17 The commission shall promulgate rules that identify the conditions under which
18 provisions of this section may be suspended.

19 **SECTION 71m.** 196.219 (2r) of the statutes is created to read:

1 196.219 (2r) SWITCHED ACCESS SERVICE RATES. Any reduction in switched access
2 service rates ordered by the commission prior to the effective date of this subsection
3 [LRB inserts date], including any reduction ordered pursuant to s. 196.195, shall
4 remain effective unless modified by the commission in a subsequent order.

5 **SECTION 71s.** 196.219 (3) (h) of the statutes is repealed.”.

6 **33.** Page 27, line 16: delete lines 16 and 17 and substitute “rates, tolls or
charges without the approval of the commission, ~~except as provided in s. 196.205 or~~
7 ~~196.215 (2).~~”.

7 **34.** Page 28, line 1: after that line insert:

8 “**SECTION 80m.** 196.50 (title) of the statutes is amended to read:

9 **196.50** (title) **Competing public utilities; indeterminate permits,**
10 **telecommunications; telecommunications utility certification.**”.

11 **35.** Page 28, line 6: after “(j) 1.” insert “a.”.

12 **36.** Page 28, line 7: after that line insert:

13 “**SECTION 83m.** 196.50 (2) (b) of the statutes is amended to read:

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

1 ~~for all services provided~~ and a map that defines the geographical limits of the service
2 territory that the telecommunications utility is obliged to serve.”.

3 **37.** Page 28, line 21: after “exempt from” insert “all provisions of ch. 201 and”.

4 **38.** Page 28, line 21: after “196.02 (2),” insert “196.03,”.

5 **39.** Page 28, line 23: delete that line and substitute “196.78, and 196.79,
except that with respect only to its switched access services, a telecommunications
utility certified under this subsection with 50,000 or less access lines in this state is
not exempt from s. 196.03 and, with respect only to its switched access services, a
telecommunications utility certified under this subsection with more than 50,000
and less than 150,000 access lines in this state is not exempt from ss. 196.03 and
196.37. The intrastate access service rates of a telecommunications utility with
150,000 or more access lines in this state may not exceed the telecommunications
utility’s interstate access service rates for similar access services, except that such
a telecommunications utility shall not assess an intrastate carrier common line
charge or a substitute charge. Except to enforce this paragraph, the commission may
not review or set the access rates for a telecommunications utility with 150,000 or
more access lines.”.

6 **40.** Page 28, line 24: delete the material beginning with that line and ending
with page 29, line 2.

7 **41.** Page 29, line 4: delete “(j)” and substitute “(j) 1.”.

8 **42.** Page 29, line 6: delete “1.” and substitute “a.”.

9 **43.** Page 29, line 9: delete “issuing” and substitute “granting”.

1 **44.** Page 29, line 10: delete “196.203 and terminating” and substitute
2 “196.203. The granting of such certification shall operate to terminate”.

3 **45.** Page 29, line 14: delete lines 14 to 19 and substitute:

4 “b. Provide notice to the commission to recertify the telecommunications utility
5 under this subsection and impose on the telecommunications utility only those
6 provisions of this chapter specified in s. 196.203 (4m) that are imposed on all
7 alternative telecommunications utilities under s. 196.203 (3). No later than 30 days
8 after receiving notice under this subd. 1. b., the commission shall issue an order
9 granting recertification under this subsection and imposing on the
10 telecommunications utility only those provisions of this chapter specified in s.
11 196.203 (4m) that are imposed on all alternative telecommunications utilities under
12 s. 196.203 (3). The telecommunications utility shall be exempt from all provisions
13 of ch. 201 and this chapter, except ss. 196.025 (6) and 196.206, and except as provided
14 in the order under this subd. 1. b.; and except that, if the telecommunications utility
15 has 50,000 or less access lines in this state, then, only with respect to its switched
16 access services, the telecommunications utility is not exempt from s. 196.03; and
17 except that, if the telecommunications utility has more than 50,000 and less than
18 150,000 access lines in this state, then, only with respect to its switched access
19 services, the telecommunications utility is not exempt from ss. 196.03 and 196.37.
20 The granting of the recertification shall operate to terminate the
21 telecommunications utility’s prior certification, and all regulatory requirements
22 related to the prior certification, including all such requirements imposed by the
 certification and all requirements imposed by the commission, whether by statute

1 or commission rule or order, on the telecommunications utility are terminated on the
2 effective date of the order.

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

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

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

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

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

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

16 **46.** Page 32, line 11: delete “is amended” and substitute “is renumbered
196.975 (1r) and amended”.

17 **47.** Page 32, line 12: delete “(1)” and substitute “(1r)”.

18 **48.** Page 32, line 12: delete “, as defined in s. 196.213” and substitute “, as
19 defined in s. 196.213”.

19 **49.** Page 32, line 13: delete “196.215 (1) (a) 1.” and substitute “(1) (a) 1.”.

20 **50.** Page 32, line 22: delete the material beginning with that line and ending
21 with page 33, line 4, and substitute:

“SECTION 102e. 196.975 (1g) of the statutes is created to read:

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

5 **SECTION 102m.** 196.975 (2) of the statutes is amended to read:

6 196.975 (2) After receiving a petition under sub. (1) (1r), the commission shall
7 schedule a public hearing, to be held in the local exchange area of the petitioners,
8 serving to receive testimony on the contents of the petition and any other matters
9 deemed relevant by the commission. The commission shall publish a class 1 notice
10 under ch. 985 in a newspaper serving the local exchange area at least 20 days prior
11 to the hearing.

12 **SECTION 102s.** 201.15 of the statutes is repealed.”.

13 **51.** Page 33, line 6: delete that line.

14 **52.** Page 33, line 7: delete that line and substitute:

15 “(1m) In this section:”.

16 **53.** Page 33, line 8: delete “1.” and substitute “(a)”.

17 **54.** Page 33, line 9: delete “2.” and substitute “(b)”.

18 **55.** Page 33, line 11: after that line insert:

19 “(c) “Telecommunications utility” has the meaning given in section 196.01 (10)
20 of the statutes.”.

21 **56.** Page 33, line 12: delete “(b) On the effective date of this paragraph” and
substitute “(2) Except as provided in section 196.219 (2r) of the statutes, as created
by this act, on the effective date of this subsection”.

22 **57.** Page 33, line 15: after that line insert:

