



2007 SENATE BILL 285

October 10, 2007 - Introduced by Senators PLALE, BRESKE, KREITLOW, SCHULTZ, OLSEN and KEDZIE, cosponsored by Representatives MONTGOMERY, VAN ROY, GUNDERSON, HAHN, GRONEMUS, ALBERS, HUBLER, VOS, A. OTT and PETERSEN. Referred to Committee on Commerce, Utilities and Rail.

1 **AN ACT** *to renumber* 196.10 and 196.78; *to amend* 196.02 (4) (a), 196.02 (4) (b)
2 (intro.) and 196.07 (1); and *to create* 196.02 (4) (bm), 196.10 (2), 196.195 (1m)
3 and 196.78 (1) of the statutes; **relating to:** the regulation of certain
4 telecommunications utilities and the public service commission's jurisdiction
5 over public utilities in general.

Analysis by the Legislative Reference Bureau

This bill does the following: 1) allows a telecommunications utility to elect to exempt its offering of basic and nonbasic retail services from certain statutes; 2) makes changes to filing requirements applicable to telecommunications utilities and alternative telecommunications utilities; and 3) makes changes to the jurisdiction of the Public Service Commission (PSC) over public utilities.

Elective exemption. The bill allows a telecommunications utility to elect to exempt its basic and nonbasic retail services from certain statutes administered by the PSC. The bill defines "basic retail service" as touch-tone service, access to emergency service, local usage, or extended area service. "Nonbasic retail service" is defined as any retail telecommunications service that is not a basic retail service. The bill allows a telecommunications utility to elect exemption by filing a notice with the PSC. Nonbasic retail service is exempt from the specified statutes beginning on the effective date of the notice and basic retail service is exempt beginning two years after the effective date. However, if basic retail service is included in a service package or bundle offered by the telecommunications utility or an affiliate, and the

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service package or bundle also includes nonbasic retail service, then that basic retail service is treated like nonbasic retail service and it is exempt beginning on the effective date of the notice.

In general, the effective date of a notice is the 60th day after the telecommunications utility files the notice. However, if another telecommunications utility or an alternative telecommunications utility is certified to provide telecommunications service in the same service territory as the telecommunications utility that filed the notice, the effective date of the notice is the filing date.

Beginning on the dates discussed above, with respect to its basic and nonbasic retail services, a telecommunications utility is not subject to the following statutory requirements: 1) certain reporting, filing, tariffing, caller identification, and promotional rate requirements; 2) pricing requirements for basic local exchange service, small business standard business access lines and usage, and basic message telecommunications service; 3) infrastructure investment requirements; 4) a prohibition against charging residential customers for basic local exchange service based on the duration of a call or on the time of day of the call; 5) requirements regarding discontinuance of service; 6) a prohibition against providing certain electronically published news, feature, or entertainment material; 7) requirements regarding rate increases that apply to telecommunications that have less than 50,000 access lines in this state; 8) requirements regarding charging different rates for certain types of service; 9) requirements for PSC investigations regarding rates, services, and other matters; 10) requirements for PSC approval of certain contracts; 11) certain requirements regarding municipal authority over public utility services and physical plant additions and extensions; and 12) requirements applicable to the issuance of securities.

If a telecommunications utility files a notice, then, during the two-year period beginning after the effective date of the notice, the telecommunications utility may not charge a rate for basic retail service that is more than 15 percent higher than the rate charged immediately before filing the notice. In addition, if a telecommunications utility files a notice, a corporation or limited liability company that owns or operates the telecommunications utility is not required to obtain the PSC consent that is required under current law in order to dissolve. Also, if the telecommunications utility has 150,000 or less access lines, then the telecommunications utility is considered to have consented to allowing another person to provide local exchange service in the same municipality in which the telecommunications utility provides such service. Under another statute administered by the PSC, such consent is, under certain circumstances, required before the other person is allowed to provide such service in the municipality. The bill requires such a person to give the PSC and the telecommunications utility 60 days prior notice before providing such service in the municipality if the other person relies on the telecommunications utility's consent as demonstrated under the bill.

Filing requirements. Current law requires public utilities to furnish to the PSC the following information about the utility's voting stockholders: 1) the names of each person holding 1 percent or more of the voting stock; 2) the nature of the property right or other legal or equitable interest of each voting stockholder; and 3)

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any other information required by the PSC. Under the bill, if the public utility is a telecommunications utility, the public utility must furnish only the names of each person holding 5 percent or more of the voting stock, as well as the nature of the property right or other legal or equitable interest of each voting stockholder. The bill also requires the PSC to withhold from public inspection such information that is furnished by telecommunications utilities.

Current law also requires public utilities to file balance sheets with the PSC, in addition to any other information prescribed by the PSC. Such information must be filed annually by April 1. The bill changes the filing deadline to May 1. In addition, the bill requires telecommunications utilities to file only the following: 1) a balance sheet; 2) a count of access lines; and 3) information needed to calculate contributions to the universal service fund. The bill requires the PSC to withhold such filings from public inspection.

In addition, current law allows the PSC to obtain accounting information regarding construction activities from public utilities. The bill prohibits the PSC from obtaining such information from telecommunications utilities.

PSC jurisdiction. Current law provides that the PSC may obtain from a public utility any information necessary to enable the PSC to perform its duties. The bill provides instead that the PSC may obtain information that is reasonably necessary to enable the PSC to perform its duties.

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.** 196.02 (4) (a) of the statutes is amended to read:

2 196.02 (4) (a) The commission may inquire into the management of the
3 business of all public utilities. The commission shall keep itself informed as to the
4 manner and method in which the same is conducted. The commission may obtain
5 from any public utility ~~any information~~ that is reasonably necessary to enable the
6 commission to perform its duties.

7 **SECTION 2.** 196.02 (4) (b) (intro.) of the statutes is amended to read:

8 196.02 (4) (b) (intro.) Each public utility, except for a telecommunications
9 utility, shall furnish to the commission, in such form and at such times as the
10 commission requires, the following information respecting the identity of the holders

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1 of its voting capital stock in order to enable the commission to determine whether the
2 holders constitute an affiliated interest within the meaning of this chapter:

3 **SECTION 3.** 196.02 (4) (bm) of the statutes is created to read:

4 196.02 (4) (bm) Each telecommunications utility shall furnish the commission
5 with the name of each holder of 5 percent or more of the voting capital stock of the
6 utility and the nature of the property right or equitable interest which each such
7 holder has in the stock. Any information furnished under this paragraph shall be
8 filed with the commission on a confidential basis and the commission shall withhold
9 the information from public inspection.

10 **SECTION 4.** 196.07 (1) of the statutes is amended to read:

11 196.07 (1) Each public utility shall close its accounts annually on December 31
12 and promptly prepare a balance sheet of that date. On or before the following April
13 May 1 every public utility shall file with the commission the balance sheet together
14 with any other information the commission prescribes, ~~except that the information~~
15 filed by a telecommunications utility or shall include only a balance sheet, a count
16 of the access lines served by the utility, and information needed to calculate
17 contributions to the universal service fund under s. 196.218 (3). The information
18 submitted under this subsection shall be verified by an officer of the public utility.
19 The commission, for good cause shown, may extend the time for filing the balance
20 sheet and prescribed information. The information submitted by a
21 telecommunications utility under this subsection shall be filed with the commission
22 on a confidential basis and the commission shall withhold the information from
23 public inspection.

24 **SECTION 5.** 196.10 of the statutes is renumbered 196.10 (1).

25 **SECTION 6.** 196.10 (2) of the statutes is created to read:

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1 196.10 (2) This section does not apply to telecommunications utilities.

2 **SECTION 7.** 196.195 (1m) of the statutes is created to read:

3 196.195 (1m) ELECTIVE DEREGULATION. (a) In this subsection:

4 1. “Affiliate,” when used in relation to a telecommunications utility, means a
5 person who owns or controls, is owned or controlled by, or is under common
6 ownership or control with, the telecommunications utility.

7 2. “Basic retail service” means touch-tone service, access to emergency service,
8 local usage, or extended area service.

9 3. “Nonbasic retail service” means a retail telecommunications service that is
10 not a basic retail service.

11 (b) Upon a telecommunications utility’s filing of written notice to the
12 commission, all of the following apply:

13 1. Beginning on the effective date of the notice, with respect to any nonbasic
14 retail service offered by the telecommunications utility, and with respect to any basic
15 retail service included in a service package or bundle that is offered by the
16 telecommunications utility or an affiliate and that also includes any nonbasic retail
17 service, the telecommunications utility is not subject to ch. 201 or s. 196.12, 196.13,
18 196.19, 196.196 (1), (4), or (5), 196.198, 196.20, 196.204 (7), 196.207, 196.21, 196.213,
19 196.215, 196.217, 196.22, 196.26, 196.28, 196.37, 196.52, 196.58, 196.60, 196.604, or
20 196.77 or tariffing requirements under s. 196.194.

21 2. Beginning 2 years after the effective date of the notice, any basic retail
22 service offered by the telecommunications utility is not subject to the statutes
23 specified in subd. 1.

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1 3. During the 2-year period beginning after the effective date of the notice, the
2 telecommunications utility may not charge a rate for basic retail service that is more
3 than 15 percent higher than the rate charged immediately before filing the notice.

4 (c) The effective date of a notice filed under par. (b) is the 60th day after filing
5 of the notice, except that the effective date is the date of the filing if another
6 telecommunications utility or an alternative telecommunications utility is certified
7 to provide telecommunications service in the same service territory as the
8 telecommunications utility that filed the notice.

9 (d) The filing of a notice by a telecommunications utility under par. (b)
10 supersedes any prior election of regulation by the telecommunications utility under
11 this chapter and any corresponding order issued by the commission prior to the
12 notice of election under par. (b).

13 (e) If a telecommunications utility files a notice under par. (b), the
14 telecommunications utility is considered to have granted consent for purposes of s.
15 196.50 (1) (b) 2. b. A person may not rely on this paragraph to demonstrate that a
16 telecommunications utility has granted such consent unless the person provides
17 written notice to the commission and the telecommunications utility at least 60 days
18 prior to providing local exchange service, as defined in s. 196.50 (1) (b) 1., in the
19 telecommunications utility's service territory.

20 **SECTION 8.** 196.78 of the statutes is renumbered 196.78 (2).

21 **SECTION 9.** 196.78 (1) of the statutes is created to read:

22 196.78 (1) In this section, "public utility" does not include a
23 telecommunications utility that files a notice under s. 196.195 (1m) (b).

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(END)