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2001 SENATE BILL 408

January 30, 2002 – Introduced by Senator ROBSON, cosponsored by Representative POWERS. Referred to Committee on Health, Utilities, Veterans and Military Affairs.

AN ACT ***to renumber and amend*** 196.194 (1); ***to amend*** 196.195 (5), 196.196 (1) (c) 1., 196.196 (1) (c) 2., 196.196 (3) (a), 196.196 (3) (b), 196.196 (5) (b) 5. and 196.204 (3); and ***to create*** 196.01 (3j), 196.025 (1m), 196.194 (1) (b), 196.196 (6) (title), 196.196 (6) (a), 196.196 (6) (b), 196.196 (6) (c), 196.196 (6) (d), 196.196 (6) (e), 196.196 (6) (f), 196.196 (6) (g), 196.196 (6) (h), 196.196 (7), 196.196 (8), 196.196 (9), 196.197, 196.1995, 196.219 (3m) and 196.662 of the statutes; **relating to:** regulation of and enforcement against large price-regulated telecommunications utilities, termination of certain telecommunications contracts, telecommunications unbundling and interconnection requirements, providing an exemption from emergency rule procedures, granting rule-making authority, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes changes to the regulation of "large price-regulated telecommunications utilities." The bill defines a "large price-regulated telecommunications utility" as a telecommunications utility that had more than 500,000 access lines in use in this state at the time that the utility elected to become price regulated. Under current law, "price regulation" is a form of regulation that is based on the prices of services offered by a telecommunications utility, instead of the utility's rate–of–return, which is the traditional basis for regulating public utilities.

The bill does all of the following, which are described below: 1) establishes retail and wholesale service standards for large price–regulated telecommunications utilities; 2) creates interconnection, collocation, and network elements requirements; 3) under certain circumstances, requires a large price–regulated telecommunications utility to structurally separate its retail and wholesale operations; 4) changes the formula for determining the price increases that a large price–regulated telecommunications utility is allowed to make; and 5) makes various other changes to the regulation of large price–regulated telecommunications utilities.

Retail and wholesale service quality

The bill requires a large price–regulated telecommunications utility to comply with monthly standards regarding retail and wholesale service quality. The retail standards consist of the following: 1) deadlines for initiating service after orders are received; 2) deadlines for restoring service outages; 3) requirements for minimizing repeat problem reports regarding access lines; 4) requirements for keeping installation and repair appointments; and 5) requirements regarding service center response times. The wholesale standards consist of the following: 1) deadlines for restoring service outages; 2) deadlines for filling orders from wholesale customers; 3) requirements for minimizing repeat problem reports regarding access lines used by wholesale customers; and 4) requirements for minimizing problems with orders made by wholesale customers. A large price–regulated telecommunications utility must make monthly reports to the public service commission (PSC) regarding compliance with the retail standards and monthly reports to the utility's wholesale customers regarding compliance with the wholesale standards.

If a large price–regulated telecommunications utility that has not structurally separated (as described below) violates a retail service standard in a month, the PSC must directly assess against the utility a forfeiture of between $2,000,000 and $6,000,000, depending on the number of standards that are violated. However, the bill allows the PSC to assess a smaller forfeiture that reflects the severity of the violation. A smaller forfeiture may be no less than 50% of the amount otherwise required. In addition, the PSC must promulgate rules that establish a range for the smaller forfeitures.

If a large price–regulated telecommunications utility that has not structurally separated violates a wholesale service standard in a month, the utility must pay compensation to the affected wholesale customer of between $200,000 to $1,000,000, depending on the the number of standards that are violated and the severity of the violation. Under certain circumstances, the amount of compensation must be doubled.

The bill also allows a large price–regulated telecommunications utility to petition the PSC to waive the requirement to pay a forfeiture or compensation. The PSC is allowed to waive the requirement if the large price–regulated telecommunications utility demonstrates that the utility's violation of a retail or wholesale service standard was caused by a natural disaster, act of God, military action, war, insurrection, or riot.

Interconnection, collocation, and network elements

The bill creates various requirements for large price–regulated telecommunications utilities regarding interconnection, collocation, and network elements. The bill defines a "network element" as a facility or equipment used to provide telecommunications service. These requirements relate to the duty of a telecommunications utility under federal law to interconnect its facilities and equipment to other telecommunications providers. "Collocation" refers to the placement of a telecommunications provider's facilities and equipment at the premises of a telecommunications utility for the purpose of interconnection. Collocation may be physical, in which facilities and equipment are actually placed at the utility's premises, or collocation may be virtual, which is the functional equivalent of physical collocation, but without the actual placement of facilities and equipment at the utility's premises.

The bill requires a large price–regulated telecommunications utility to provide interconnection, collocation, and network elements in a manner that promotes the maximum development of competitive telecommunications service offerings in this state. Also, a large price–regulated telecommunications utility must provide interconnection, collocation, and network elements in a manner specified by a telecommunications provider if that manner is technically feasible. In addition, the rates at, and terms and conditions on, which a large price–regulated telecommunications utility provides physical or virtual collocation of any type of equipment for interconnection with, or access to the network elements of, the utility or any collocated telecommunications provider at the utility's premises, must be just, reasonable, and nondiscriminatory.

The bill also requires a large price–regulated telecommunications utility to provide, upon request, for cross–connects between the facilities or equipment of collocated telecommunications providers that are the most reasonably direct and efficient, as determined by the collocated telecommunications provider. Also upon request, a large price–regulated telecommunications utility must provide for cross–connects between the facilities or equipment of a collocated telecommunications provider and the network elements platform or transport facilities of a noncollocated telecommunications provider. (A "network elements platform" is the sum of the various constituent network elements of the utility.) A large price–regulated telecommunications utility must provide either type of cross–connect in a manner that is consistent with safety and network reliability standards.

Also, a large price–regulated telecommunications utility must, as requested by a telecommunications provider, provide network elements on a bundled or unbundled basis at rates, and on terms and conditions, that are just, reasonable, and nondiscriminatory. Although not defined in the bill, it is understood in the telecommunications industry that "bundled" network elements are those that are not separated from other network elements, and "unbundled" network elements are those that are separated from other network elements. The network elements must be provided at any point that the telecommunications provider determines is technically feasible and provided in a manner that allows the telecommunications provider to combine the network elements to provide new or existing telecommunications service. Unless directed by a telecommunications provider, a large price–regulated telecommunications utility is not allowed to require a wholesale customer to purchase network elements on an unbundled basis if the utility ordinarily combines the elements to provide service to the utility's own end–user customers. The bill defines "end–user customer" as a person who receives local exchange service, but does not resell the service or use the service to provide telecommunications service to another person. Also, as requested by a telecommunications provider, a large price–regulated telecommunications utility must combine any sequence of network elements that the utility ordinarily combines for itself.

In addition, a large price–regulated telecommunications utility may not require that a telecommunications provider purchase other network elements or retail services of the utility if the telecommunications provider uses the network elements platform of the utility that consists solely of combined network elements and the use is for the purpose of providing telecommunications service to an end–user customer. Other requirements apply to the use of a network elements platform, including the requirement that a large price–regulated telecommunications utility must provide the platform without any disruption of services to end–user customers.

Finally, the bill requires the PSC to issue an order establishing a compliance plan for each large price–regulated telecommunications utility that includes standards for the utility to provide nondiscriminatory access to the utility's services and network elements to the utility's wholesale customers. The plan must also include procedures for measuring the utility's compliance with the standards and requirements for the utility to make specified monetary payments to a wholesale customer if the utility fails to comply with a standard. The PSC must issue the order no later than nine months after the effective date of the bill.

Separation of wholesale and retail affiliates

The bill requires the PSC to order a large price–regulated telecommunications utility to structurally separate its wholesale and retail operations into separate affiliates if, in any consecutive 24–month period after the effective date of the bill, the utility has three or more violations of specified requirements under state or federal law, including the interconnection, collocation, and network elements requirements described below. The PSC must also issue such an order if, after two years after the effective date of the bill, less than 50% of the residential or business access lines in the utility's service territory receive local exchange service from another telecommunications provider. In addition, the PSC must issue such an order if it makes other specified findings regarding the market power of the large price–regulated telecommunications utility or if the PSC finds that the utility's competitors are not able to obtain equal and reliable access to the utility's unbundled network elements or operational support systems.

A large price–regulated telecommunications utility that is ordered to structurally separate must satisfy certain requirements, including the following: 1) the retail and wholesale affiliates must have separate officers, directors, employees, and publicly traded stock; 2) no more than 50% of the publicly traded stock of the wholesale affiliate may be owned by persons that are affiliated with the retail affiliate; 3) the retail and wholesale affiliates must operate independently of each other, maintain separate books, records, and accounts, and conduct business between each other on an arm's length basis; 4) the retail affiliate must use the same operational support system interfaces that the wholesale affiliate makes available to unaffiliated telecommunications providers; 5) the retail and wholesale affiliates may not obtain credit under any arrangement that permits a creditor, upon default, to have recourse to the assets of the utility or another affiliate of the utility; 6) the retail and wholesale affiliates may not discriminate between another affiliate of the utility and any other person in providing or procuring goods, services, facilities, or information; and 7) the wholesale affiliate may not transfer any network element to any retail affiliate of the utility.

The bill allows the PSC to approve a transition plan submitted by a large price–regulated telecommunications utility for phasing in the utility's compliance with an order to structurally separate. Also, the bill allows a large price–regulated telecommunications utility voluntarily to structurally separate, subject to the PSC's approval.

Price increase formula

Under current law, a price–regulated telecommunications utility may increase its service rates according to a formula that is based on annual changes in the gross domestic product price index (GDPPI). Under the formula, the change in the revenue weighted price indexes for all services that are subject to price regulation may not exceed the difference between the most recent annual change in GDPPI and an offset percentage. In addition, the offset percentage is subject to the following: 1) a penalty adjustment that increases the offset percentage for inadequate service or insufficient investment by a telecommunications utility; and 2) an incentive adjustment that decreases the offset percentage for encouraging infrastructure investment by a telecommunications utility.

The amount of the offset percentage and the penalty and incentive adjustments depend on the size of a telecommunications utility. For a large price–regulated telecommunications utility, the offset percentage is 3%, which is subject to a penalty adjustment that may not exceed 2% and an incentive adjustment that may not exceed 2%. The PSC is required to promulgate rules that establish the penalty and incentive adjustments.

This bill changes the penalty adjustment to the offset percentage for large price–regulated telecommunications utilities. Under the bill, the penalty adjustment may not exceed 10%.

Other changes

The bill also does all of the following:

1. The bill allows the PSC to take various enforcement actions against a large price–regulated telecommunications utility that violates a requirement

administered by the PSC, including ordering the utility to pay damages to a person who is injured by the violation. The bill also allows the PSC or a court to assess a forfeiture for such a violation of between $25,000 and $250,000. (This forfeiture authority does not apply to violations of the retail service standards, which are subject to the forfeitures described above.)

2. The bill requires a large price–regulated telecommunications utility to issue credits to end–user customers if the utility fails to satisfy requirements regarding each of the following: 1) disruption of service; 2) failure to install local exchange service; 3) failure to keep service or repair appointments; 4) printed directory mistakes; and 5) directory assistance mistakes. The amount of a credit depends on the type of requirement and whether a residential or business telephone line is affected.

3. The bill allows a customer of a large price–regulated telecommunications utility to terminate, without penalty, a contract with the utility for local exchange service, but only if the customer terminates the contract because the customer enters into another contract with another telecommunications provider. The deadline for terminating a contract is the first day of the 25th month beginning after the bill's effective date. The right to terminate does not apply to a wholesale customer of a large price–regulated telecommunications utility.

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

5. The bill specifies the circumstances under which the PSC must advise against the federal communications commission's approval of a petition filed by a large price–regulated telecommunications utility for interlata long distance authority.

6. The bill provides that, if a large price–regulated telecommunications utility files a petition with the PSC that the utility's rates are not just and reasonable, the utility rescinds its election to be price regulated and the PSC must impose cost–based, rate–of–return regulation on the utility.

7. The bill prohibits a large price–regulated telecommunications utility from imposing or assessing a charge or fee, or otherwise seeking payment or requiring compensation from any person for the installation, construction, extension, or use of telecommunications facilities, equipment, or infrastructure, related to a real estate development.

8. The bill allows a person to bring an action for damages for an injury caused by a large price–regulated telecommunications utility's violation of a requirement administered by the PSC.

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:

SECTION 1. 196.01 (3j) of the statutes is created to read:

196.01 **(3j)** "Large price–regulated telecommunications utility" means a telecommunications utility that had more than 500,000 access lines in use in this state at the time of electing to become price–regulated.

SECTION 2. 196.025 (1m) of the statutes is created to read:

196.025 **(1m)** In making all telecommunications–related decisions and orders, including rate setting and rule–making orders, the commission shall promote the availability of high quality telecommunications services at reasonable rates, facilitate the development of competitive markets for local telecommunications services, protect the public against monopolies, and ensure the effective regulation of large price–regulated telecommunications utilities that have control or market power over essential telecommunications facilities.

SECTION 3. 196.194 (1) of the statutes is renumbered 196.194 (1) (a) and amended to read:

196.194 **(1)** (a) *Approval.* Except as provided in this ~~subsection~~ paragraph, nothing in this chapter prohibits the commission from approving the filing of a tariff which permits a telecommunications utility to enter into an individual contract with an individual customer if substitute telecommunications services are available to customers or potential customers of the telecommunications utility and the absence of such a tariff will cause the telecommunications utility to be disadvantaged in competing for business. A tariff filed under this ~~subsection~~ paragraph shall include the condition that any such contract shall be compensatory as determined under s. 196.204 (5) and (6). The tariff shall include any other condition and procedure required by the commission in the public interest. Within 20 days after a contract authorized under this ~~subsection~~ paragraph or an amendment to such a contract has been executed, the telecommunications utility shall submit to the commission written notice of the general nature of the contract and the parties to the contract. Upon request, the commission shall inform a person, or direct that the person be informed, that notice has been received by the commission of execution of a contract under this ~~subsection~~ paragraph. Within 6 months after receiving substantial evidence that a contract may be noncompensatory, or upon its own motion, the commission shall investigate and determine whether the contract is compensatory. If the commission determines that the contract is noncompensatory, the commission may make appropriate adjustments in the rates or tariffs of the telecommunications utility that has entered into the contract, in addition to other remedies under this chapter. The dollar amount of the adjustment may not be less than the amount by which the contract was found to be noncompensatory.

SECTION 4. 196.194 (1) (b) of the statutes is created to read:

196.194 **(1)** (b) *Right to terminate certain contracts.* 1. In this paragraph:

a. "Contract" means a contract between a telecommunications provider and a person for the telecommunications provider to provide local exchange service to the person.

b. "Customer" means a person who enters into a contract with a telecommunications provider, but does not include a wholesale customer, as defined in s. 196.197 (1) (f).

c. "Local exchange service" has the meaning given in s. 196.50 (1) (b) 1.

2. Notwithstanding any provision in a tariff filed under par. (a), no later than the first day of the 25th month beginning after the effective date of this subdivision .... [revisor inserts date], a customer may terminate, without penalty, a contract entered into before the effective date of this subdivision .... [revisor inserts date], with a large price–regulated telecommunications utility before the expiration of the contract if the customer terminates the contract because the customer enters into a contract with another telecommunications provider. Termination of a contract under this subdivision is effective when the large price–regulated telecommunications utility receives oral or written notice from the customer.

3. A large price–regulated telecommunications utility for which a contract is terminated under subd. 2. may not remove, alter, or render unusable any network element, as defined in s. 196.196 (7) (a) 1., used to serve the customer who terminated the contract, except in accordance with generally recognized telecommunications industry engineering standards that relate to the safe, economical, or efficient use or operation of the network element.

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

196.195 **(5)** COMMISSION ACTION. If after the proceedings under subs. (2), (3)~~,~~ and (4) the commission has determined that effective competition exists in the market for the telecommunications service which justifies a lesser degree of regulation and that lesser regulation in that market will serve the public interest, the commission may, by order, suspend any of the following provisions of law, except as provided under subs. (7) and (8): ch. 201 and s. 196.02 (2); s. 196.05; s. 196.06; s. 196.07; s. 196.09; s. 196.10; s. 196.12; s. 196.13 (2); s. 196.19; tariffing requirements under s. 196.194 (1) (a); s. 196.196 (1) or (5); s. 196.20; s. 196.204 (7); s. 196.21; s. 196.22; s.

196.26; s. 196.28; s. 196.37; s. 196.49; s. 196.52; s. 196.58; s. 196.60; s. 196.604; s. 196.77; s. 196.78; s. 196.79; and s. 196.805.

SECTION 6. 196.196 (1) (c) 1. of the statutes is amended to read:

196.196 **(1)** (c) 1. A price–regulated telecommunications utility may not increase its rates for services under par. (a), except for basic message telecommunications service, for a period of 3 years after electing to become price regulated. Following the initial 3–year period for services under par. (a), except for basic message telecommunications service, and at any time for basic message telecommunications service, a price–regulated telecommunications utility may increase its rates for those services to the extent that the change in the revenue weighted price indices does not exceed 2 percentage points less than the most recent annual change in the gross domestic product price index, as published by the federal government. The commission shall, by rule, create a penalty mechanism for up to a one percentage point increase in the percentage offset for inadequate service provided by or insufficient investment made by a price–regulated telecommunications utility. The commission shall, by rule, create an incentive mechanism for up to a one percentage point decrease in the percentage offset to encourage infrastructure investment by the price–regulated telecommunications utility. For a large price–regulated telecommunications utility ~~with more than 500,000 access lines in use in this state at the time of electing to become price regulated~~, the percentage offset to the change in the gross domestic product price index shall be 3 percentage points ~~and~~, the penalty mechanism shall be up to a 10 percentage point increase, and the incentive mechanism shall be up to a 2 percentage ~~points~~ point decrease. No earlier than 6 years after September 1, 1994, and no more frequently than every 3 years thereafter, the commission may, following notice and an opportunity for hearing, by rule increase or decrease the gross domestic product price index percentage offset by a maximum of one percentage point in any 12–month period to reflect any statewide changes in the productivity experience of the telecommunications industry. The commission shall promulgate rules to identify the factors that the commission may consider in determining changes in the productivity experience of the telecommunications industry. If application of the price regulation index formula achieves a negative result, prices shall be reduced so that the cumulative price change for services under par. (a), including prior price reductions in these services, achieves the negative result.

SECTION 7. 196.196 (1) (c) 2. of the statutes is amended to read:

196.196 **(1)** (c) 2. Annual permitted price increases under this paragraph may be deferred and accumulated for a maximum of 3 years into a single increase. The first permitted increase after the telecommunications utility elects to become price regulated shall be limited by the most recent annual change in the gross domestic product price index, less 2 percentage points, plus or minus any penalty or incentive adjustment. For a large price–regulated telecommunications utility ~~with more than 500,000 access lines in use in this state~~, the first permitted increase shall be limited by the most recent annual change in the gross domestic product price index, less 3 percentage points, plus or minus any penalty or incentive adjustment. The increase in any rate element may not at any time exceed 10% or the increase in the gross domestic product price index, whichever is greater.

SECTION 8. 196.196 (3) (a) of the statutes is amended to read:

196.196 **(3)** (a) Except to the extent expressly permitted by this section and ss. 196.19 (1m), 196.194, 196.195, 196.197, 196.1995, 196.20 (1m), 196.204, 196.209~~,~~ and 196.219, the commission may not have jurisdiction over the prices or terms and conditions for the offering of any other services, including new telecommunications services, offered by a price–regulated telecommunications utility.

SECTION 9. 196.196 (3) (b) of the statutes is amended to read:

196.196 **(3)** (b) A price–regulated telecommunications utility shall file tariffs with the commission for the provision of any telecommunications service, whether or not the service is otherwise subject to this chapter. Except as provided in ~~s.~~ ss. 196.20 (2) (am) and 196.662 (1) (b) 2., changes in the terms and conditions of tariffed services under par. (a) shall be effective one day after filing with the commission, unless the tariff specifies a later effective date.

SECTION 10. 196.196 (5) (b) 5. of the statutes is amended to read:

196.196 **(5)** (b) 5. For a large price–regulated telecommunications utility ~~with more than 500,000 access lines in use in this state at the time of electing to become price regulated~~, a level of planned investment in an amount of not less than $700,000,000 within the first 5 years of the plan.

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

196.196 **(6)** (title) MANDATORY CREDITS.

SECTION 12. 196.196 (6) (a) of the statutes is created to read:

196.196 **(6)** (a) *Definitions.* In this subsection:

1. "Customer" means any person, including a telecommunications provider, that uses the services, products, or facilities provided by a large price–regulated telecommunications utility.

2. "End–user customer" means a person that receives local exchange service from a large price–regulated telecommunications utility or another telecommunications provider, and that does not resell the local exchange service or use such service to provide telecommunications service to any other customer.

3. "Local exchange service" has the meaning given in s. 196.50 (1) (b) 1.

SECTION 13. 196.196 (6) (b) of the statutes is created to read:

196.196 **(6)** (b) *Service disruptions.* 1. If the local exchange service of an end–user customer is disrupted by a large price–regulated telecommunications utility and remains disrupted for more than 24 hours after the disruption is reported to the large price–regulated telecommunications utility, the utility shall issue a credit in an amount specified in subd. 2. to the end–user customer unless one of the following applies:

a. The disruption is caused by the end–user customer or the end–user customer's telecommunications equipment.

b. The disruption is caused by a natural disaster, act of God, military action, war, insurrection, or riot.

c. The end–user customer fails to keep an appointment to repair the disruption and the utility is not able to obtain access to repair the disruption.

2. If service is disrupted for 24 hours or more, the amount of the credit under subd. 1. shall be $35 for each primary residential line, $5 for each other residential line, $135 for each main billing business line, and $25 for each other business line, for each 24–hour period, or portion of a 24–hour period, in which service is disrupted.

SECTION 14. 196.196 (6) (c) of the statutes is created to read:

196.196 **(6)** (c) *Failure to install local exchange service.* 1. Except as provided in subd. 2., if a large price–regulated telecommunications utility fails to install local exchange service or related equipment within 5 business days after an end–user customer places an order for the service or equipment, the large price–regulated telecommunications utility shall issue a credit to the end–user customer in an amount equal to $35 for each residential line and $135 for each business line for each business day, or portion of a business day, beyond the 5th business day that the service or equipment is not installed.

2. Subdivision 1. does not apply to any of the following:

a. The installation of service in an undeveloped area where there are no telecommunications facilities.

b. A failure to install that is caused by a natural disaster, act of God, military action, war, insurrection, or riot.

c. A failure to install resulting from the end–user customer voluntarily changing the installation date without providing notice 48 hours before the originally scheduled installation date.

SECTION 15. 196.196 (6) (d) of the statutes is created to read:

196.196 **(6)** (d) *Failure to keep appointments.* 1. A large price–regulated telecommunications utility shall do all of the following:

a. Except as provided in subd. 2., if the utility fails to keep an appointment to install service or make on–premises or outside repairs for an end–user customer, issue a $35 credit for each residential line and a $135 credit for each business line that is affected by the failure.

b. Inform an end–user customer about the utility's obligation to issue a credit under subd. 1. a. at the time an appointment is made.

2. Subdivision 1. a. does not apply if the large price–regulated telecommunications utility provides the end–user customer with 24–hour advance notice that the utility is not able to keep the appointment or if a natural disaster, act of God, military action, war, insurrection, or riot prevents the utility from keeping the appointment.

SECTION 16. 196.196 (6) (e) of the statutes is created to read:

196.196 **(6)** (e) *Printed directory mistakes.* If directory information pertaining to an end–user customer is stated incorrectly in, or erroneously omitted from, a printed telephone directory published by a large price–regulated telecommunications utility, the utility shall issue a credit to the end–user customer, unless the large price–regulated telecommunications utility demonstrates to the satisfaction of the commission that the mistake was caused by the end–user customer. The utility shall issue a credit for each local line used by the end–user customer, except that if the end–user customer uses more than 3 local lines the utility shall issue credits for only 3 of the lines. The credit for each line shall be equal to 3 times the sum of the end–user customer's local line rate and, if applicable, the average monthly usage rate for the line at the time of the mistake. This paragraph does not apply to telephone directories that are printed before the effective date of this paragraph .... [revisor inserts date].

SECTION 17. 196.196 (6) (f) of the statutes is created to read:

196.196 **(6)** (f) *Directory assistance mistakes.* If a large price–regulated telecommunications utility fails to include an end–user customer's directory information accurately in directory assistance, the large price–regulated telecommunications utility shall issue a $35 credit for each residential line and a $135 credit for each business line for each 5–business–day period, or portion of 5–business–day period, after the date that the large price–regulated telecommunications utility is notified about the failure, unless the large price–regulated telecommunications utility demonstrates to the satisfaction of the commission that the failure was caused by the end–user customer.

SECTION 18. 196.196 (6) (g) of the statutes is created to read:

196.196 **(6)** (g) *Credit procedure.* 1. If a large price–regulated telecommunications utility is required to provide a credit to an end–user customer under this subsection, the large price–regulated telecommunications utility shall issue the credit by adjusting the end–user customer's first bill following the event for which the credit is required.

2. Except for an end–user customer report under par. (b) 1., a large price–regulated telecommunications utility may not require an end–user customer to provide any notice as a condition for issuing a credit required under this subsection.

SECTION 19. 196.196 (6) (h) of the statutes is created to read:

196.196 **(6)** (h) *Other remedies available.* The remedies under this subsection are not exclusive.

SECTION 20. 196.196 (7) of the statutes is created to read:

196.196 **(7)** SEPARATION OF WHOLESALE AND RETAIL AFFILIATES. (a) *Definitions.* In this subsection:

1. "Network element" means a facility or equipment used to provide telecommunications service. "Network element" includes features, functions, and capabilities that are provided by means of such a facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for bills or collections, or that are used in transmitting, routing, or otherwise providing telecommunications service.

2. "Retail affiliate" means an affiliate through which a large price–regulated telecommunications utility provides telecommunications services to retail customers.

3. "Wholesale affiliate" means an affiliate through which a large price–regulated telecommunications utility provides telecommunications services and network elements to other telecommunications providers, including the utility's retail affiliates.

(b) *Mandatory structural separation.* The commission shall, after notice and, if requested, a hearing, order a large price–regulated telecommunications utility to structurally separate its wholesale and retail operations into separate affiliates as provided in par. (d) if any of the following occurs:

1. The utility has had, in any consecutive 24–month period after the effective date of this subdivision .... [revisor inserts date], 3 or more of any one or combination of the following:

a. A violation of s. 196.219 (3).

b. A violation of s. 196.1995.

c. A violation of s. 196.03 (1) in which the utility failed to provide reasonably adequate service or facilities on a timely basis to a wholesale customer, as defined in s. 196.197 (1) (f).

d. A finding by the commission under s. 196.199 (3) (a) 2. that the utility failed to comply with an interconnection agreement.

e. A finding by the commission that the utility failed to negotiate in good faith under 47 USC 252 (a) (1).

f. A violation of the federal Telecommunications Act of 1996 or an order or regulation of the federal communications commission issued or promulgated under that act.

2. The commission finds that, after 2 years after the effective date of this subdivision .... [revisor inserts date], less than 50% of the residential access lines, or

less than 50% of the business access lines, in the utility's service territory receive local exchange service from another telecommunications provider.

3. The commission finds any of the following:

a. The utility has the ability to maintain prices below cost, or above competitive price levels, for a significant period of time.

b. The utility's competitors are not able to obtain equal and reliable access to the utility's unbundled network elements or operational support systems.

c. The utility exercises market power in a manner that precludes the development of substantial and sustainable competition.

(c) *Voluntary structural separation.* Subject to the approval of the commission, a large price–regulated telecommunications utility may structurally separate its wholesale and retail operations into separate affiliates as provided in par. (d).

(d) *Requirements for structural separation.* For a large price–regulated telecommunications utility to structurally separate under par. (b) or (c), all of the following requirements must be satisfied:

1. The utility's wholesale affiliate must have officers, directors, employees, and publicly traded stock that are entirely separate from the officers, directors, employees, and publicly traded stock of the utility's retail affiliate.

2. No more than 50% of the publicly traded stock of the utility's wholesale affiliate may be owned by persons that are affiliated with the utility's retail affiliate.

3. The utility's retail and wholesale affiliates must operate independently of each other.

4. The utility's retail and wholesale affiliates must maintain separate books, records, and accounts.

5. The utility's retail and wholesale affiliates must conduct all business between each other on an arm's length basis, reduce all transactions between each other to writing that is available for public inspection, and account for all such transactions in accordance with accounting principles specified or approved by the commission.

6. The utility's retail affiliate must use the same operational support system interfaces that the utility's wholesale affiliate makes available to unaffiliated telecommunications providers.

7. Any other requirement specified by the commission must be satisfied.

(e) *Transitional plans.* The commission may approve a transitional plan submitted by a large price–regulated telecommunications utility that specifies a reasonable schedule for phasing in the utility's compliance with an order under par. (b) or for voluntary structural separation under par. (c), except that, after 3 years after the effective date of this paragraph .... [revisor inserts date], a wholesale affiliate of a utility that structurally separates under par. (b) or (c) may not market, offer, or provide any retail telecommunications service or related feature to any retail customer.

(f) *Prohibitions.* 1. A wholesale or retail affiliate of a large price–regulated telecommunications utility may not do any of the following:

a. Obtain credit under any arrangement that permits a creditor, upon default, to have recourse to the assets of the utility or another affiliate of the utility.

b. Discriminate between another affiliate of the utility and any other person in providing or procuring goods, services, facilities, or information.

2. A wholesale affiliate of a large price–regulated telecommunications utility may not transfer any network element to a retail affiliate of the utility.

SECTION 21. 196.196 (8) of the statutes is created to read:

196.196 **(8)** CONSULTATION WITH FEDERAL COMMUNICATIONS COMMISSION. (a) In this subsection, "end–user customer" has the meaning given in sub. (6) (a) 2.

(b) If the federal communications commission consults with the commission under 47 USC 271 (d) (2) (B), the commission shall advise against approving the petition of a large price–regulated telecommunications utility for interlata long distance authority if either of the following applies:

1. For a utility that has not structurally separated under sub. (7) (b) or (c), less than 25% of the utility's access lines serving residential end–user customers in the utility's service territory, or less than 25% of the utility's access lines serving business end–user customers in the utility's service territory, receive basic local exchange service from another telecommunications provider.

2. The commission determines that the utility has failed to meet the requirements of 47 USC 271 (c).

SECTION 22. 196.196 (9) of the statutes is created to read:

196.196 **(9)** JUST AND REASONABLE RATES; EFFECT OF PETITION. A large price–regulated telecommunications utility may petition the commission for a determination that its rates, as established under this section, are not just and reasonable. By filing such a petition, a large price regulated telecommunications utility rescinds its election to be price regulated and the commission shall impose cost–based, rate–of–return regulation on all products and services offered by the utility. A large price–regulated telecommunications utility may not elect to be price regulated within 3 years after filing a petition under this subsection.

SECTION 23. 196.197 of the statutes is created to read:

196.197 Retail and wholesale telecommunications service quality. (1) DEFINITIONS. In this section:

(a) "End–user customer" has the meaning given in s. 196.196 (6) (a) 2.

(b) "Local exchange service" has the meaning given in s. 196.50 (1) (b) 1.

(c) "Network element" has the meaning given in s. 196.196 (7) (a) 1.

(d) "Repeat trouble report" means a trouble report made by an end–user customer or wholesale customer within 30 days after a large price–regulated telecommunications utility has resolved a problem regarding the same access line in response to a prior trouble report by the customer.

(e) "Trouble report" means a report by an end–user customer to a large telecommunications utility or wholesale customer, or by a wholesale customer to a large price–regulated telecommunications utility, about a problem regarding the end–user customer's access line or an access line used by the wholesale customer.

(f) "Wholesale customer" means a telecommunications provider that uses the services, products, or facilities of a large price–regulated telecommunications utility to provide telecommunications service to an end–user customer.

(2) RETAIL SERVICE STANDARDS. In addition to any standard required by the commission or agreed to by a large price–regulated telecommunications utility, a large price–regulated telecommunications utility shall, on a monthly basis, comply with each of the following standards in providing telecommunications services, products, or facilities to its end–user customers:

(a) *Initiation of service.* The utility shall begin providing local exchange service for 95% of the orders for such service by the utility's end–user customers no less than 5 business days after receiving an order.

(b) *Service outages.* The utility shall restore no less than 95% of local exchange service outages to end–user customers within 24 hours after an end–user customer reports the outage to the utility.

(c) *Repeat trouble reports.* The utility shall ensure that no more than 10% of all trouble reports are repeat trouble reports.

(d) *Missed repair appointments.* The utility shall keep no less than 90% of all appointments scheduled to install service or make repairs for the utility's end–user customers, excluding those appointments for which the utility gives 24–hour advance notice that the appointment will be missed. The commission shall promulgate rules to administer the requirements of this paragraph.

(e) *Service center response times.* The utility shall ensure that in no less than 90% of all calls by end–user customers to the utility's service center the customer is connected to a live service representative within 20 seconds after the call begins.

(3) WHOLESALE SERVICE STANDARDS. In addition to complying with any standard required by the commission or agreed to by a large price–regulated telecommunications utility, a large price–regulated telecommunications utility shall, on a monthly basis, comply with each of the following standards in providing telecommunications services or products or network elements to each of its wholesale customers:

(a) *Service outages.* The utility shall restore no less than 95% of service outages affecting end–user customers with access lines used by the wholesale customer within 24 hours after the wholesale customer reports the outage to the utility.

(b) *Response to orders.* Except as provided in par. (c), the utility shall ensure that no less than 95% of the wholesale customer's orders for unbundled loops, unbundled network platforms, or resale are filled within 5 business days after the utility receives an order.

(c) *Response to orders with agreed delivery times.* If the utility and a wholesale customer agree upon a time other than 5 business days for filling an order for unbundled loops, unbundled network platforms, or resale, the utility shall ensure that no less than 95% of such orders are filled within the agreed time.

(d) *Repeat trouble reports.* The utility shall ensure that no more than 10% of all trouble reports about the utility's access lines that are used by the wholesale customer are repeat trouble reports.

(e) *Order problems.* The utility shall ensure that, for no less than 90% of all orders for unbundled loops, unbundled network platforms, or resale, a wholesale customer does not report a problem about the order to the utility during the 7–day period beginning after the date on which the order is filled.

(4) FORFEITURES; COMPENSATION. (a) *Retail service.* 1. If a report filed under sub. (5) (a) 1. demonstrates, or if the commission otherwise determines, that a large price–regulated telecommunications utility that has not structurally separated under s. 196.196 (7) (b) or (c) has failed to comply with a standard under sub. (2), the commission shall, except as provided in par. (d), directly assess against the utility the following forfeitures:

a. If the utility fails to meet one of the standards in a month, $2,000,000.

b. If the utility fails to meet 2 of the standards in a month, $3,000,000.

c. If the utility fails to meet 3 of the standards in a month, $4,000,000.

d. If the utility fails to meet 4 of the standards in a month, $5,000,000.

e. If the utility fails to meet 5 of the standards in a month, $6,000,000.

2. Notwithstanding subd. 1., the commission may assess a forfeiture that is less than an amount specified in subd. 1. which reflects the severity of the large price–regulated utility's failure to comply with a standard under sub. (2). The commission shall promulgate rules establishing the range of forfeitures that the commission may assess under this subdivision. The lowest forfeiture in such a range may be no less than 50% of the amount specified in subd. 1.

3. A large price–regulated telecommunications utility against whom the commission assesses a forfeiture under subd. 1. shall pay the forfeiture to the commission within 10 days after receipt of notice of the assessment or, if the utility petitions for judicial review under ch. 227, within 10 days after receipt of the final decision after exhaustion of judicial review. The commission shall remit all forfeitures paid under this subdivision to the state treasurer for deposit in the school fund. The attorney general shall bring an action in the name of the state to collect any forfeiture assessed by the commission under subd. 1. that has not been paid as provided in this subdivision. The only contestable issue in such an action is whether or not the forfeiture has been paid.

(b) *Wholesale service.* A large price–regulated telecommunications utility that has not structurally separated under s. 196.196 (7) (b) or (c) shall, except as provided in par. (d), compensate a wholesale customer the following amounts if the utility's monthly report under sub. (5) (a) 2. to that wholesale customer demonstrates that the utility has failed to comply with a standard under sub. (3) with respect to that wholesale customer:

1. If the utility fails to meet one of the standards in a month:

a. If the utility fails to comply with the standard by not more than 5%, $200,000.

b. If the utility fails to comply with the standard by more than 5% but not more than 10%, $300,000.

c. If the utility fails to comply with the standard by more than 10%, $400,000.

2. If the utility fails to meet 2 of the standards in a month:

a. If the utility fails to comply with both of the standards by not more than 5%, $300,000.

b. If the utility fails to comply with at least one of the standards by more than 5% but not more than 10%, and if subd. 2. c. does not apply, $400,000.

c. If the utility fails to comply with at least one of the standards by more than 10%, $500,000.

3. If the utility fails to meet 3 of the standards in a month:

a. If the utility fails to comply with all 3 of the standards by not more than 5%, $500,000.

b. If the utility fails to comply with at least one of the standards by more than 5% but not more than 10%, and if subd. 3. c. does not apply, $600,000.

c. If the utility fails to comply with at least one of the standards by more than 10%, $700,000.

4. If the utility fails to meet 4 of the standards in a month:

a. If the utility fails to comply with all 4 of the standards by not more than 5%, $700,000.

b. If the utility fails to comply with at least one of the standards by more than 5% but not more than 10%, and if subd. 4. c. does not apply, $800,000.

c. If the utility fails to comply with at least one of the standards by more than 10%, $900,000.

5. If the utility fails to meet 5 of the standards in a month:

a. If the utility fails to comply with all 5 of the standards by not more than 5%, $800,000.

b. If the utility fails to comply with at least one of the standards by more than 5% but not more than 10%, and if subd. 5. c. does not apply, $900,000.

c. If the utility fails to comply with at least one of the standards by more than 10%, $1,000,000.

(c) *Doubling of compensation.* The compensation that a large price–regulated utility must pay to a wholesale customer for a month under par. (b) shall be doubled if the utility has failed to comply with 2 or more standards under sub. (3) with respect to that wholesale customer in each of the preceding 3 months or in any 6 of the preceding 12 months. If compensation payable to a wholesale customer for a month is doubled under this paragraph, the doubling shall continue in each succeeding month until the utility complies with at least 4 of the standards under sub. (3) with respect to that wholesale customer for 3 consecutive months.

(d) *Waiver.* No later than 30 days after filing a report under sub. (5) (a), a large price–regulated telecommunications utility may petition the commission to waive a requirement to pay a forfeiture or compensation under par. (a) or (b). The commission may waive the requirement if the large price–regulated telecommunications utility demonstrates to the satisfaction of the commission that the utility's failure to comply with a standard under sub. (2) or (3) was caused by natural disaster, act of God, military action, war, insurrection, or riot.

(5) REPORTS. (a) A large price–regulated telecommunications utility shall do all of the following:

1. File monthly reports with the commission that document the extent to which the utility has complied with the standards under sub. (2) during the previous month.

2. File monthly reports with each wholesale customer that document the extent to which the utility has complied with the standards under sub. (3) with respect to that wholesale customer during the previous month.

(b) Each report filed under par. (a) shall include an affirmation, subject to penalty of false swearing under s. 946.32, by an officer of the large price–regulated telecommunications utility that the information contained in the report is true and complete.

(c) The commission shall promulgate rules establishing the format for reports filed under par. (a).

SECTION 24. 196.1995 of the statutes is created to read:

196.1995 Interconnection, collocation, and network elements. (1) DEFINITIONS. In this section:

(a) "End–user customer" has the meaning given in s. 196.196 (6) (a) 2.

(b) "Local exchange service" has the meaning given in s. 196.50 (1) (b) 1.

(c) "Network element" has the meaning given in s. 196.196 (7) (a) 1.

(d) "Wholesale customer" has the meaning given in s. 196.197 (1) (f).

(2) GENERALLY. (a) A large price–regulated telecommunications utility shall provide interconnection, collocation, and network elements to telecommunications providers in a manner that promotes the maximum development of competitive telecommunications service offerings in this state.

(b) A large price–regulated telecommunications utility shall provide interconnection, collocation, and network elements in a manner specified by a telecommunications provider if that manner is technically feasible. A manner is presumed to be technically feasible if the large price–regulated telecommunications utility or any of its affiliates offer or provide interconnection, collocation, and network elements in that manner in any jurisdiction.

(3) COLLOCATION. (a) A large price–regulated telecommunications utility shall provide physical or virtual collocation of any type of equipment for interconnection with, or access to the network elements of, the utility or any collocated telecommunications provider at the utility's premises, at rates and on terms and conditions that are just, reasonable, and nondiscriminatory. In this paragraph, "equipment" includes optical transmission equipment, multiplexers, remote switching modules, and cross–connects between the facilities or equipment of other collocated telecommunications providers. In this paragraph, "equipment" also includes microwave transmission facilities on the exterior or interior of any premises owned or controlled by a large price–regulated telecommunications utility, unless the large price–regulated telecommunications utility demonstrates to the satisfaction of the commission that physical or virtual collocation of such facilities is not feasible due to technical issues or space limitations.

(b) Upon request, a large price–regulated telecommunications utility shall provide for each of the following in a manner that is consistent with safety and network reliability standards:

1. Cross–connects between the facilities or equipment of collocated telecommunications providers that are the most reasonably direct and efficient, as determined by the collocated telecommunications provider.

2. Cross–connects between the facilities or equipment of a collocated telecommunications provider and the network elements platform or transport facilities of a noncollocated telecommunications provider.

(4) NETWORK ELEMENTS. (a) Upon the request of a telecommunications provider, a large price–regulated telecommunications utility shall provide network elements on a bundled or unbundled basis, as requested by the telecommunications provider, at any point that the telecommunications provider determines is technically feasible, and in a manner that allows the telecommunications provider to combine the network elements to provide new or existing telecommunications service. A large price–regulated telecommunications utility must provide network elements under this paragraph at rates, and on terms and conditions, that are just, reasonable, and nondiscriminatory.

(b) A large price–regulated telecommunications utility may not require a wholesale customer to purchase network elements on an unbundled basis if the utility ordinarily combines the elements to provide service to the utility's own end–user customers, except at the direction of a telecommunications provider that requests unbundled network elements.

(c) At the direction of a telecommunications provider that requests network elements, a large price–regulated telecommunications utility shall provide network elements on a bundled or unbundled basis, and shall combine any sequence of network elements requested by the telecommunications provider that the utility ordinarily combines for itself.

(d) If a telecommunications provider uses the network elements platform of a large price–regulated telecommunications utility that consists solely of combined network elements and the use is for the purpose of providing telecommunications service to an end–user customer, the large price–regulated telecommunications utility may not require that the telecommunications provider purchase other network elements or retail services of the utility. A telecommunications provider may order the network elements platform on an as–is basis for an end–user customer that has received local exchange service from the large price–regulated telecommunications utility and the telecommunications provider may direct the utility not to change any of the features previously selected by the end–user customer. A large price–regulated telecommunications utility that provides a network elements platform to a telecommunications provider shall provide the platform without any disruption of services to end–user customers.

(5) COMPLIANCE PLAN. (a) No later than the first day of the 9th month beginning after the effective date of this paragraph .... [revisor inserts date], the commission shall, after notice and, if requested, a hearing, issue an order establishing a compliance plan for each large price–regulated telecommunications utility that includes each of the following:

1. Standards for the utility to provide nondiscriminatory access to the utility's services and network elements, including the utility's operational support system, to the utility's wholesale customers. The access must be at least equal in quality to the access provided by the utility to itself or to any subsidiary, affiliate, or other person to which the utility provides interconnection.

2. Procedures for measuring the large price–regulated telecommunications utility's compliance with the standards under subd. 1.

3. Requirements for the utility to make specified monetary payments to a wholesale customer if the utility fails to comply with the standards under subd. 1.

(b) The requirements of this subsection apply in addition to any requirements under an interconnection agreement.

SECTION 25. 196.204 (3) of the statutes is amended to read:

196.204 **(3)** The commission shall establish the necessary minimum accounting and reporting requirements, and structural separation requirements if necessary, for telecommunications utilities to enable it to enforce this section. For a telecommunications utility regulated under s. 196.195 or 196.196, these requirements shall at a minimum include the filing of cost support documentation demonstrating compliance with subs. (5) and (6) before the effective date of each new service, including any unbundled service element or basic network function; before any reduction in the price of a service offered to end users; and before any increase in the price of a service offered to other telecommunications providers. The commission, on its own motion or upon complaint, may order any telecommunications utility to file cost support documentation showing that a service that the utility offers or a contract that the utility has entered into under s. 196.194 <u>(1) (a)</u> complies with subs. (5) and (6).

SECTION 26. 196.219 (3m) of the statutes is created to read:

196.219 **(3m)** REAL ESTATE DEVELOPMENT. (a) In this subsection, "real estate development" means the act of dividing or subdividing any parcel of land for construction or making improvements to facilitate or allow construction or the act of creating, constructing, or improving a subdivision, development, building, or home.

(b) Except for the recovery of costs included in recurring rates for local exchange service, as defined in s. 196.50 (1) (b) 1., or in recurring rates for wholesale service to other telecommunications providers, a large price–regulated telecommunications utility may not impose or assess a charge or fee, or otherwise seek payment or require compensation from any person for the installation, construction, extension, or use of telecommunications facilities, equipment, or infrastructure, related to a real estate development.

SECTION 27. 196.662 of the statutes is created to read:

196.662 Large price–regulated telecommunications utilities; remedies and enforcement. (1) COMMISSION AUTHORITY. (a) In this subsection, "interested person" means any of the following:

1. A customer of a large price–regulated telecommunications utility.

2. A telecommunications provider that competes with a large price–regulated telecommunications utility.

(b) The commission may, on its own motion, or in response to a complaint filed by an interested person, investigate whether a large price–regulated telecommunications utility has violated this chapter or a rule or order promulgated or issued under this chapter. After notice and, if requested, a hearing, if the commission finds that a large price–regulated telecommunications utility has committed such a violation, the commission shall directly assess against the utility a forfeiture under sub. (3) or, if applicable, under s. 196.197 (4) (a), and the commission shall do one or more of the following:

1. Order the utility to comply with this chapter or a rule or order promulgated or issued under this chapter.

2. Impose a tariff on the utility for retail or wholesale services or network elements. If the commission imposes a tariff under this subdivision, the tariff shall remain in effect until the utility files its own tariff and the commission, after notice and hearing, approves the utility's tariff.

3. Order the utility to pay damages to any person injured by the utility's violation of this chapter or a rule or order promulgated or issued under this chapter.

4. Order the utility to pay costs and reasonable attorney fees to the person, if any, who filed the complaint in response to which the commission took action under this paragraph.

(c) A large price–regulated telecommunications utility against whom the commission assesses a forfeiture under sub. (3) shall pay the forfeiture to the commission within 10 days after receipt of notice of the assessment or, if the utility petitions for judicial review under ch. 227, within 10 days after receipt of the final decision after exhaustion of judicial review. The commission shall remit all forfeitures paid under this paragraph to the state treasurer for deposit in the school fund. The attorney general shall bring an action in the name of the state to collect any forfeiture assessed by the commission under sub. (3) that has not been paid as provided in this paragraph. The only contestable issue in such an action is whether the forfeiture has been paid.

(2) CIVIL REMEDY. (a) Any person who is injured by a large price–regulated telecommunications utility's violation of this chapter or a rule or order promulgated or issued under this chapter may bring an action for damages resulting from the violation, or for injunctive or declaratory relief, or for any combination thereof. If the person prevails in the action, the court shall do all of the following:

1. Award the person costs and reasonable attorney fees, notwithstanding s. 814.04 (1).

2. Require the large price–regulated telecommunications utility to pay the forfeiture specified in sub. (3).

(b) A person may bring an action under par. (a) in lieu of filing a complaint with the commission under sub. (1) (b).

(3) FORFEITURES. (a) If the commission or a court finds that a large price–regulated telecommunications utility has violated this chapter or a rule or order promulgated or issued under this chapter, the commission or court shall require the utility to forfeit not less than $25,000 nor more than $250,000 for each violation. Each day of violation constitutes a separate violation.

(b) The commission or a court shall consider all of the following in determining the amount of the forfeiture under par. (a):

1. The appropriateness of the forfeiture to the volume of business of the large price–regulated telecommunications utility.

2. The gravity of the violation.

(c) This subsection does not apply to violations of the standards under s. 196.197 (2) or (3).

SECTION 28. Nonstatutory provisions.

(1) Using the procedure under section 227.24 of the statutes, the public service commission shall promulgate emergency rules under section 196.197 (2) (d), (4) (a) 2., and (5) (c) of the statutes, as created by this act, for the period before the effective date of permanent rules initially promulgated under section 196.197 (2) (d), (4) (a) 2., and (5) (c) of the statutes, as created by this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the public service commission is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health,

safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(2) The public service commission shall submit in proposed form the rules required under section 196.197 (2) (d), (4) (a) 2., and (5) (c) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 7th month beginning after the effective date of this subsection.

SECTION 29. Initial applicability.

(1) The treatment of section 196.196 (6) (b) of the statutes first applies to reports made on the effective date of this subsection.

(2) The treatment of section 196.196 (6) (c) of the statutes first applies to orders made on the effective date of this subsection.

(3) The treatment of section 196.196 (6) (f) of the statutes first applies to notifications made on the effective date of this subsection.

(4) The treatment of section 196.219 (3m) of the statutes first applies to creation, construction, or improvements that begin on the effective date of this subsection.

(5) The treatment of section 196.662 of the statutes first applies to violations occurring on the effective date of this subsection.

SECTION 30. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 196.219 (3m) of the statutes and SECTION 29 (4) of this act take effect on the first day of the 2nd month beginning after publication.

(END)