

State of Wisconsin



January 2011 Special Session
Senate Bill 13

Date of enactment: **May 24, 2011**
Date of publication*: **June 8, 2011**

2011 WISCONSIN ACT 22

AN ACT to repeal 196.09 (9), 196.19 (1m), 196.19 (5), 196.194 (title), 196.194 (1), 196.196, 196.198 (2) (b), 196.20 (1m), 196.20 (2) (am), 196.20 (2r), 196.20 (3), 196.20 (5), 196.20 (6), 196.203 (3) (b), 196.203 (3) (c), 196.203 (3) (d), 196.203 (3) (dm), 196.203 (3) (e), 196.203 (4), 196.204 (1), 196.204 (2), 196.204 (3), 196.204 (4), 196.204 (5) (b), 196.204 (6), 196.205 (2), 196.213, 196.215, 196.218 (5) (a) 2., 196.219 (2m), 196.219 (3) (h), 196.26 (4), 196.49 (1) (ag), 196.49 (3) (d), 196.50 (1) (b) 1. and 2., 196.50 (2) (g) 3., 196.50 (2) (h), 196.52 (5) (b), 196.60 (2), 196.77, 196.79 (2), 196.805 and 201.15; **to renumber** 196.50 (1) (b) 3. and 196.52 (5) (a); **to renumber and amend** 196.04 (1) (a) 1., 196.194 (2), 196.198 (2) (a), 196.203 (1), 196.203 (2), 196.203 (3) (a), 196.204 (5) (ag), 196.204 (5) (ar), 196.205 (1m) (intro.), 196.205 (1m) (a), 196.205 (1m) (c), 196.79 (1) and 196.975 (1); **to amend** 20.155 (1) (q), 93.01 (1m), 133.07 (2), 196.01 (9m), 196.02 (2), 196.04 (1) (b) 1., 196.04 (2), 196.09 (1), 196.11 (2), 196.13 (2), 196.198 (3) (intro.), 196.198 (3) (a), 196.198 (3) (b) (intro.), 196.20 (1), 196.20 (2) (a) (intro.), 196.20 (2m), 196.202 (2), 196.203 (5), 196.218 (1) (c), 196.218 (3) (a) 3m., 196.218 (3) (f), 196.218 (5) (b), 196.218 (5) (c) 5., 196.218 (5r) (a) 1., 196.218 (5r) (a) 4., 196.219 (1) (b), 196.219 (2) (a), 196.25 (1), 196.25 (2), 196.25 (3), 196.26 (1) (a), 196.28 (4), 196.31 (1m), 196.37 (3), 196.37 (4), 196.49 (3) (b) (intro.), 196.50 (title), 196.50 (2) (b), 196.50 (2) (e) 1., 196.50 (2) (f), 196.52 (3) (b) 1., 196.52 (3) (c) (intro.), 196.52 (6), 196.52 (9) (e), 196.60 (1) (a), 196.604, 196.81 (3), 196.975 (2), 201.01 (2) and 943.45 (1) (intro.); **to repeal and recreate** 196.195, 196.204 (title) and 196.218 (4); and **to create** 182.017 (1g) (cq), 196.01 (1d) (g), 196.01 (2s), 196.01 (3a), 196.01 (8d), 196.01 (8e), 196.01 (12w), 196.016, 196.04 (1) (a) 3., 196.191, 196.203 (1d), 196.203 (1g) (b), 196.203 (2) (b), 196.203 (2) (c), 196.203 (2) (d), 196.203 (4m), 196.205 (1) (c), 196.205 (2m) (b), 196.206, 196.212, 196.218 (1) (a), 196.219 (2r), 196.50 (2) (i), 196.50 (2) (j), 196.503 and 196.975 (1g) of the statutes; **relating to**: regulation of telecommunications utilities and alternative telecommunications utilities; telecommunications provider of last-resort obligations; telecommunications intrastate switched access rates; interconnected voice over Internet protocol service; and use of transmission equipment and property by video service providers.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.155 (1) (q) of the statutes is amended to read:

20.155 (1) (q) *Universal telecommunications service.* From the universal service fund, the amounts in the schedule for the promotion of universal telecommunica-

tions service for the purposes specified in s. 196.218 (5) (a) 1. to 4., 8. and 9.

SECTION 2. 93.01 (1m) of the statutes is amended to read:

93.01 (1m) “Business” includes any business, except that of banks, savings banks, credit unions, savings and loan associations, and insurance companies. “Business” includes public utilities and telecommunications carriers

* Section 991.11, WISCONSIN STATUTES 2009–10 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

to the extent that their activities, beyond registration, notice, and reporting activities, are not regulated by the public service commission and includes public utility and telecommunications carrier methods of competition or trade and advertising practices that are exempt from regulation by the public service commission under s. 196.195, ~~196.196~~, 196.202, 196.203, 196.206, 196.219, ~~or 196.499, or 196.50 (2) (i)~~ or by other action of the commission.

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

133.07 (2) This chapter does not prohibit activities of any public utility, as defined in s. 196.01 (5), or telecommunications carrier, as defined in s. 196.01 (8m), which are required by ch. 196 or rules or orders under ch. 196, activities necessary to comply with that chapter or those rules or orders or activities that are actively supervised by the public service commission. This subsection does not apply to activities of a public utility or telecommunications carrier that are exempt from public service commission regulation under s. 196.195, ~~196.196~~, 196.202, 196.203, 196.206, 196.219 ~~or 196.499, or 196.50 (2) (i)~~ or by other action by the commission.

SECTION 4. 182.017 (1g) (cq) of the statutes is created to read:

182.017 (1g) (cq) “Telecommunications service” means the offering for sale of the conveyance of voice, data, or other information, including the sale of service for collection, storage, forwarding, switching, and delivery incidental to such communication regardless of the technology or mode used to make such offering.

SECTION 5. 196.01 (1d) (g) of the statutes is created to read:

196.01 (1d) (g) A telecommunications utility certified under s. 196.203 pursuant to s. 196.50 (2) (j) 1. a.

SECTION 6. 196.01 (2s) of the statutes is created to read:

196.01 (2s) “Incumbent local exchange carrier” has the meaning given in [47 USC 251](#) (h).

SECTION 7. 196.01 (3a) of the statutes is created to read:

196.01 (3a) “Interconnected voice over Internet protocol service” has the meaning given in [47 CFR 9.3](#).

SECTION 8. 196.01 (8d) of the statutes is created to read:

196.01 (8d) “Switched access rates” means the rates, rate elements, and rate structure, including all applicable fixed and traffic sensitive charges, that a telecommunications provider charges for the provision of switched access services.

SECTION 9. 196.01 (8e) of the statutes is created to read:

196.01 (8e) “Switched access service” means the offering of switched access to a local exchange network for the purpose of enabling an entity to originate or termi-

nate telecommunications service within the local exchange.

SECTION 10. 196.01 (9m) of the statutes is amended to read:

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

SECTION 11. 196.01 (12w) of the statutes is created to read:

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

1. The service is provided by a telecommunications provider to another telecommunications provider other than an affiliate, as defined in s. 196.212 (1) (a).
2. The service is subject to regulation by the commission under this chapter.
3. The service is subsequently used in the provision of a telecommunications service to retail end users.

(b) “Wholesale telecommunications service” does not include switched access service.

SECTION 12. 196.016 of the statutes is created to read:

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

SECTION 13. 196.02 (2) of the statutes is amended to read:

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

SECTION 14. 196.04 (1) (a) 1. of the statutes is renumbered 196.04 (1) (a) 4. and amended to read:

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

SECTION 15. 196.04 (1) (a) 3. of the statutes is created to read:

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

SECTION 16. 196.04 (1) (b) 1. of the statutes is amended to read:

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

SECTION 17. 196.04 (2) of the statutes is amended to read:

196.04 (2) If there is a failure to agree upon the use of transmission equipment and property under sub. (1) or the conditions or compensation for the use, or if there is a failure to agree upon the physical connections or the terms and conditions upon which the physical connections shall be made, any public utility, any video service provider, telecommunications provider, or any other interested person interested may apply to the commission. If, after investigation, the commission determines that public convenience and necessity require the use of the transmission equipment and property or the physical connections and that the use or physical connections will not result in irreparable injury to the owner or other users of the transmission equipment and property or of the facilities of the public utility, video service provider, or telecommunications provider or in any substantial detriment to the service to be rendered by the owner or the public utility, video service provider, telecommunications provider, or other users of the transmission equipment and property or facilities, the commission, by order, shall direct that the use of the transmission equipment and property be permitted and that the physical connections be made. The commission shall prescribe reasonable conditions and compensation for the use of the transmission equipment and property and shall determine how and within what time the physical connections shall be made and by whom the expense of making and maintaining the physical connections shall be paid. An order under this subsection may be revised by the commission.

SECTION 18. 196.09 (1) of the statutes is amended to read:

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

SECTION 19. 196.09 (9) of the statutes is repealed.

SECTION 20. 196.11 (2) of the statutes is amended to read:

196.11 (2) Any arrangement under this section shall be under the supervision and regulation of the commission. The commission may order any rate, charge or regulation which the commission deems necessary to give effect to the arrangement. The commission may make any change in a rate, charge or regulation as the commission determines is necessary and reasonable and may revoke its approval and amend or rescind all orders relative to any arrangement. This subsection does not apply to telecommunications cooperatives, unincorporated telecommunications cooperative associations, or telecommunications utilities except as provided in s. 196.205.

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

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

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

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

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

196.191 Telecommunications utility and alternative telecommunications utility tariffs. (1) No later than the 90th day beginning after the effective date of this subsection [LRB inserts date], any telecommunications utility or alternative telecommunications utility that provides intrastate switched access service within this state shall at all times have on file with the commission a tariff showing all rates, tolls, and charges that it has

established and that are in force for such intrastate switched access service. The absence of such a tariff before the 90th day beginning after the effective date of this subsection [LRB inserts date], shall not prohibit a telecommunications utility or alternative telecommunications utility from charging intrastate switched access rates for any intrastate switched access service that it provides, or limit or excuse any entity from its obligation to pay intrastate switched access rates, provided that such intrastate switched access rates comply with the requirements of ss. 196.212 and 196.219 (2r). A telecommunications utility or alternative telecommunications utility may not withdraw a tariff for switched access service once the tariff is in effect. Except as allowed under this section or to comply with ss. 196.212 and 196.219 (2r), a telecommunications utility or alternative telecommunications utility may not file to change the rates, tolls, and charges shown in a tariff for switched access service.

(2) Except as provided in this section and s. 196.212, notwithstanding anything in this chapter to the contrary, any telecommunications utility or alternative telecommunications utility may do any of the following:

(a) Retain on file with the commission tariffs already on file with the commission as of the effective date of this paragraph [LRB inserts date], showing the rates, tolls, and charges and the terms and conditions that the telecommunications utility or alternative telecommunications utility has established as of the effective date of this paragraph [LRB inserts date], for some or all of the services performed by the telecommunications utility or alternative telecommunications utility within the state or for any service in connection therewith or performed by any telecommunications utility or alternative telecommunications utility controlled or operated by the telecommunications utility or alternative telecommunications utility.

(b) File with the commission new tariffs showing the rates, tolls, and charges and the terms and conditions that the telecommunications utility or alternative telecommunications utility has established, as provided in the tariff filings, for some or all of the services performed by the telecommunications utility or alternative telecommunications utility within the state or for any service in connection therewith or performed by any telecommunications utility or alternative telecommunications utility controlled or operated by the telecommunications utility or alternative telecommunications utility.

(c) Except as provided in sub. (1), withdraw a tariff for any service by providing notice to the commission.

(d) 1. Except as provided in subd. 2., change the rates, tolls, and charges and the terms and conditions of a tariff on file with the commission by filing a revised tariff with the commission. Except as provided in subd. 2., a proposed change in a tariff shall be effective at the time specified in the revised tariff as filed with the commission.

2. No change in a tariff that constitutes an increase in intrastate switched access rates may be made unless the change is consistent with the public interest factors set forth in s. 196.03 (6) and does not violate ss. 196.212 and 196.219 (2r) and the commission by order, after investigation and opportunity for a hearing, approves the change, except that an increase in intrastate switched access rates shall be effective at the time specified in the revised tariff as filed with the commission, if either of the following is satisfied:

a. The increase results in the intrastate switched access rates mirroring the interstate switched access rates for the telecommunications utility or alternative telecommunications utility.

b. If the telecommunications utility or alternative telecommunications utility is a small telecommunications utility, the increase does not violate s. 196.212 or 196.219 (2r), does not exceed, in any 12-month period, the percentage increase in the U.S. consumer price index for all urban consumers, U.S. city average, for the previous year, and is not greater than the corresponding increase in interstate switched access rates for the small telecommunications utility.

(3) (a) Except as provided in par. (b), if a telecommunications utility or alternative telecommunications utility files a new tariff under sub. (2) (b), all of the following apply:

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

2. The commission may modify the new tariff after an opportunity for a hearing only to the extent that the tariff violates s. 196.209, 196.212, or 196.219 and only to the extent that s. 196.209, 196.212, or 196.219 applies to the telecommunications utility or alternative telecommunications utility.

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

(b) If a telecommunications utility or alternative telecommunications utility files a new tariff under sub. (2) (b) to comply with sub. (1) for intrastate switched access service that includes intrastate switched access rates higher than the intrastate switched access rates it charged

on January 1, 2011, the tariff shall not be effective unless the new tariff is consistent with the public interest factors set forth in s. 196.03 (6) and does not violate s. 196.212 or 196.219 (2r) and the commission by order, after investigation and opportunity for a hearing, approves the new tariff and rates, except that an increase in intrastate switched access rates shall be effective at the time specified in the new tariff as filed with the commission if sub. (2) (d) 2. a. is satisfied or, if the telecommunications utility or alternative telecommunications utility is a small telecommunications utility, sub. (2) (d) 2. a. or b. is satisfied.

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

(5) Every telecommunications utility or alternative telecommunications utility that files a tariff with the commission under this section shall include all rates, tolls, and charges and all terms and conditions that apply to the services specified in the tariff.

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

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

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

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

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

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

196.194 Gas utilities utility individual contracts.

Nothing in ss. 196.03, 196.19, 196.20, 196.21, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the commission from approving the filing of a tariff which permits a gas utility to enter into an individual contract with an individual customer if the term of the contract is no more than 5 years, or a longer period approved by the commission, and if the commission determines that substitute gas services are available to customers or potential customers of the gas utility and the absence of such a tariff will cause the gas utility to be disadvantaged in competing for business. A tariff filed under this ~~subsection~~ section shall include the condition that any such contract

shall be compensatory. 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~~ section or an amendment to such a contract has been executed, the gas utility shall submit the contract to the commission. The commission shall give notice to any person, upon request, that a contract authorized under this ~~subsection~~ section has been received by the commission. The notice shall identify the gas utility that has entered into the contract. 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 gas 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 28. 196.195 of the statutes is repealed and recreated to read:

196.195 Alternative telecommunications regulation plans. Any telecommunications utility that as of the effective date of this section ... [LRB inserts date], is subject to an alternative regulation plan approved by the commission under s. 196.195, 2009 stats., shall remain regulated pursuant to such alternative regulation plan to the extent that the alternative regulation plan is not inconsistent with ss. 196.191 and 196.212, unless the telecommunications utility terminates the alternative regulation plan pursuant to the terms and conditions of the plan. If such an inconsistency exists, the requirements of ss. 196.191 and 196.212 shall apply to the intrastate switched access rates and intrastate switched access service tariff filings of such a telecommunications utility.

SECTION 29. 196.196 of the statutes is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

196.203 (1g) (intro.) Alternative telecommunications utilities are exempt from all provisions of ~~ch. 201~~ and this chapter, except as provided in this section, and except that ~~an~~ for all of the following:

(a) ~~An~~ alternative telecommunications utility is subject to ~~s. ss. 196.01, 196.016,~~ 196.025 (6), and ~~except that an 196.191, 196.206, and 196.212.~~

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

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

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

SECTION 47. 196.203 (1g) (b) of the statutes is created to read:

196.203 (1g) (b) An alternative telecommunications utility certified under this section pursuant to s. 196.50 (2) (j) 1. a. is subject to ss. 196.219 (2r) and 196.503, and, with respect only to wholesale telecommunications services, is subject to ss. 196.03 (1) and (6), 196.219 (4), 196.28, and 196.37; and, if such an alternative telecommunications utility was regulated as a price-regulated telecommunications utility prior to the effective date of this paragraph [LRB inserts date], the alternative telecommunications utility's intrastate dedicated access rates shall mirror its interstate dedicated access rates.

SECTION 48. 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and amended to read:

196.203 (2) (a) No person may commence providing service as an alternative telecommunications utility unless the person petitions for and the commission issues a determination certification that the person is an alternative telecommunications utility or unless the person is a telecommunications utility that the commission certifies as an alternative telecommunications utility under this section pursuant to s. 196.50 (2) (j) 1. a.

(6) The commission shall maintain information on ~~authorized~~ certified alternative telecommunications utility

lities and on applicants for alternative telecommunications utility status certification and make that information available to any person, upon request.

SECTION 49. 196.203 (2) (b) of the statutes is created to read:

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

SECTION 50. 196.203 (2) (c) of the statutes is created to read:

196.203 (2) (c) An alternative telecommunications utility may provide notice to the commission to maintain certification as an alternative telecommunications utility but to recertify the alternative telecommunications utility and impose on the alternative telecommunications utility only those provisions of this chapter specified in this paragraph. No later than 30 days after receiving notice under this paragraph, the commission shall issue an order granting recertification and imposing on the alternative telecommunications utility those provisions of this chapter specified in sub. (4m) (a) that are imposed on all alternative telecommunications utilities under sub. (3). The commission may impose a provision of this chapter specified in sub. (4m) (b) or (c) if in the public interest. An alternative telecommunications utility for which an order of recertification is issued is subject to sub. (1g). The granting of the recertification shall operate to terminate the alternative telecommunications utility's prior certification. All regulatory requirements in or related to the prior certification that are inconsistent with the requirements of or regulation allowed under this section, including all such requirements imposed by the certification and all such requirements imposed by the commission, whether by statute or commission rule or order, on the alternative telecommunications utility are terminated on the effective date of the order, unless the alternative telecommunications utility, in its notice to the commission seeking recertification under this paragraph, requests to remain subject to one or more requirements of its prior certification that do not violate the alternative telecommunications utility's requirements and obligations under this chapter and the commission does not deny the request in the commission's recertification order.

SECTION 51. 196.203 (2) (d) of the statutes is created to read:

196.203 (2) (d) The commission may deny a petition for certification as an alternative telecommunications utility described in s. 196.01 (1d) (f) only if the commission finds that the petitioner does not have the financial, managerial, or technical capabilities to provide its pro-

posed services or to comply with conditions that the commission is authorized to impose under sub. (3).

SECTION 52. 196.203 (3) (a) of the statutes is renumbered 196.203 (3) and amended to read:

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

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

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

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

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

SECTION 57. 196.203 (3) (e) of the statutes is repealed.

SECTION 58. 196.203 (4) of the statutes is repealed.

SECTION 59. 196.203 (4m) of the statutes is created to read:

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

(b) In addition to the requirements under s. 196.212, the commission may, with respect only to intrastate switched access services, impose s. 196.03 (1) or (6) or 196.37 on an alternative telecommunications utility, except that the commission may not investigate, review, or set the rates for intrastate switched access services of an alternative telecommunications utility that is subject to s. 196.212 (2) or (3) except as required to enforce s. 196.212 (2) or (3).

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

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SECTION 60. 196.203 (5) of the statutes is amended to read:

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

SECTION 61. 196.204 (title) of the statutes is repealed and recreated to read:

196.204 (title) Local government telecommunications utilities.

SECTION 62. 196.204 (1) of the statutes is repealed.

SECTION 63. 196.204 (2) of the statutes is repealed.

SECTION 64. 196.204 (3) of the statutes is repealed.

SECTION 65. 196.204 (4) of the statutes is repealed.

SECTION 66. 196.204 (5) (ag) of the statutes is renumbered 196.204 (1m), and 196.204 (1m) (intro.), as renumbered, is amended to read:

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

SECTION 67. 196.204 (5) (ar) of the statutes is renumbered 196.204 (2m), and 196.204 (2m) (a), (b) (intro.) and (c) (intro.), as renumbered, are amended to read:

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

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

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

SECTION 68. 196.204 (5) (b) of the statutes is repealed.

SECTION 69. 196.204 (6) of the statutes is repealed.

SECTION 70. 196.205 (1) (c) of the statutes is created to read:

196.205 (1) (c) The articles of incorporation of the small telecommunications utility under s. 181.1001 or

the articles of organization of the small telecommunications utility under s. 183.0203.

SECTION 71. 196.205 (1m) (intro.) of the statutes is renumbered 196.205 (intro.) and amended to read:

196.205 Election of rate regulation of telecommunications cooperatives. (intro.) A telecommunications cooperative ~~or~~, an unincorporated telecommunications cooperative association, or a small telecommunications utility may elect to be subject to ss. 196.28 and 196.37 as they apply to any rate, toll, or charge and to ~~ss. 196.02 (2), 196.09 (1), s. 196.11 (2), 196.20 and 196.26~~ in any of the following ways:

SECTION 72. 196.205 (1m) (a) of the statutes is renumbered 196.205 (1) (intro.) and amended to read:

196.205 (1) (intro.) By amendment of any of the following:

(a) ~~The~~ The articles of incorporation of the cooperative under s. 185.51 ~~or the~~,

(b) ~~The~~ The articles of organization of the association under s. 193.221.

SECTION 73. 196.205 (1m) (c) of the statutes is renumbered 196.205 (2m) (intro.) and amended to read:

196.205 (2m) (intro.) By a majority of any of the following:

(a) ~~The~~ The voting members of the board of directors of the cooperative ~~or~~, association, or small telecommunications utility.

SECTION 74. 196.205 (2) of the statutes is repealed.

SECTION 75. 196.205 (2m) (b) of the statutes is created to read:

196.205 (2m) (b) If a small telecommunications utility is organized as a limited liability company, the voting members of the small telecommunications utility.

SECTION 76. 196.206 of the statutes is created to read:

196.206 Interconnected voice over Internet protocol service. (1) EXEMPTIONS. An interconnected voice over Internet protocol service is not subject to this chapter, except as provided in this section, and except that an interconnected voice over Internet protocol service is subject to ss. 196.01, 196.016, 196.025 (6), 196.199, 196.218 (3), 196.858, and 196.859, and except as required for the commission to administer and enforce this section.

(2) UNIVERSAL SERVICE FUND. An entity that provides interconnected voice over Internet protocol service in this state shall make contributions to the universal service fund based on its revenues from providing intrastate interconnected voice over Internet protocol service. The revenues shall be calculated using the entity's actual intrastate revenues, a provider-specific traffic study approved by the commission or federal communications commission, or the inverse of the interstate jurisdictional allocation established by the federal communications commission for the purpose of federal universal service assessments. To the extent applicable, the calculation of the intrastate revenues of an entity that provides intercon-

nected voice over Internet protocol service shall be based on the primary physical service address identified by the customer.

(3) **INTRASTATE SWITCHED ACCESS RATES.** (a) Unless otherwise provided under federal law, an entity that provides an interconnected voice over Internet protocol service shall pay intrastate switched access rates in connection with the interconnected voice over Internet protocol services that it provides to the same extent that any telecommunications provider is obligated to pay intrastate switched access rates in connection with the telecommunications services that it provides.

(b) Unless otherwise provided under federal law, an entity that provides an intrastate switched access service in connection with interconnected voice over Internet protocol services shall be subject to s. 196.191 with respect to such intrastate switched access service and may charge intrastate switched access rates to the same extent that any telecommunications provider may charge intrastate switched access rates in connection with the intrastate switched access services that it provides.

SECTION 77. 196.212 of the statutes is created to read:

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

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

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

(c) "Large nonincumbent" means a telecommunications provider that is not an incumbent local exchange carrier, that had 10,000 or more access lines in use in this state as of January 1, 2010, and that was granted an initial certification by the commission pursuant to s. 196.203 or 196.50 before January 1, 2011.

(d) "New nonincumbent" means a telecommunications provider, other than an alternative telecommunications utility certified under s. 196.203 pursuant to s. 196.50 (2) (j) 1. a., that is not an incumbent local exchange carrier and that was granted an initial certification by the commission pursuant to s. 196.203 or 196.50 on or after January 1, 2011.

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

(f) "Small nonincumbent" means a telecommunications provider that is not an incumbent local exchange carrier, that had fewer than 10,000 access lines in use in

this state as of January 1, 2010, and that was granted an initial certification by the commission pursuant to s. 196.203 or 196.50 before January 1, 2011.

(2) **NEW NONINCUMBENTS AND LARGE NONINCUMBENTS.** (a) *New nonincumbents.* Within 30 days of the effective date of this paragraph [LRB inserts date], a new nonincumbent may not charge intrastate switched access rates that are higher than its interstate switched access rates.

(b) *Large nonincumbents.* 1. Except for an increase in intrastate switched access rates under s. 196.191 (2) (d) 2. a. or (3) (b) in order to mirror its interstate switched access rates, a large nonincumbent may not charge intrastate switched access rates higher than the intrastate switched access rates it charged on January 1, 2011.

2. A large nonincumbent shall reduce its intrastate switched access rates as follows:

a. No later than 4 years after the effective date of this subd. 2. a. [LRB inserts date], the large nonincumbent shall reduce its intrastate switched access rates by an amount equal to 33 percent of the difference between its intrastate switched access rates in effect prior to the reduction and its interstate switched access rates in effect prior to the reduction.

b. No later than 5 years after the effective date of this subd. 2. b. [LRB inserts date], the large nonincumbent shall further reduce its intrastate switched access rates by an amount equal to 50 percent of the difference between its intrastate switched access rates in effect prior to the reduction and its interstate switched access rates in effect prior to the reduction.

c. No later than 6 years after the effective date of this subd. 2. c. [LRB inserts date], the large nonincumbent shall further reduce its intrastate switched access rates in order to mirror its interstate switched access rates in effect prior to the reduction and, beginning no later than that date, may not charge intrastate switched access rates that are higher than its interstate switched access rates.

(3) **LARGE INCUMBENT LOCAL EXCHANGE CARRIERS.** A large incumbent local exchange carrier shall reduce its intrastate switched access rates to no higher than the large incumbent local exchange carrier's interstate switched access rates as follows:

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

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

(c) No later than 3 years after the effective date of this paragraph [LRB inserts date], the large incumbent local exchange carrier shall further reduce its intrastate switched access rates by an amount equal to 33 percent of the difference between its intrastate switched access rates in effect prior to the reduction and its interstate switched access rates in effect prior to the reduction.

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

(e) No later than 5 years after the effective date of this paragraph [LRB inserts date], the large incumbent local exchange carrier shall further reduce its intrastate switched access rates in order to mirror its interstate switched access rates in effect prior to the reduction and, beginning no later than that date, may not charge intrastate switched access rates that are higher than its interstate switched access rates.

(4) LIMITED COMMISSION REVIEW. (a) Notwithstanding any other provision of this chapter, except to enforce this section and ss. 196.191(2) (d) 2. a. and 196.219 (2r), and except to enforce s. 196.191 (3) (b) only to allow an increase in intrastate switched access rates in order to mirror interstate switched access rates, the commission may not investigate, review, or set the intrastate switched access rates of large nonincumbents, new nonincumbents, and large incumbent local exchange carriers.

(b) Notwithstanding any other provision of this chapter except to enforce ss. 196.191 (2) (d) 2. and 196.219 (2r), during the 4–year period beginning on the effective date of this paragraph [LRB inserts date], the commission may not investigate, review, or set the intrastate switched access rates of small incumbent local exchange carriers.

(c) Notwithstanding any other provision of this chapter except to enforce ss. 196.191 (2) (d) 2. and 196.219 (2r), during the 3–year period beginning on the effective date of this paragraph [LRB inserts date], the commission may not investigate, review, or set the intrastate switched access rates of small nonincumbents.

(5) ENFORCEMENT. Notwithstanding any other provision of this chapter, the commission shall have jurisdiction to enforce payment of intrastate switched access rates set forth in a tariff required under s. 196.191 (1) or a contract for intrastate switched access service allowed under 196.191 (6).

(6) APPLICATION. The intrastate switched access rate reductions required by this section apply to any entity subject to those rates, regardless of the technology or mode used by that entity to provide its telecommunications services.

SECTION 78. 196.213 of the statutes is repealed.

SECTION 79. 196.215 of the statutes is repealed.

SECTION 80. 196.218 (1) (a) of the statutes is created to read:

196.218 (1) (a) “Essential telecommunications services” means the services or functionalities listed in [47 CFR 54.101](#) (a) as of January 1, 2010.

SECTION 81. 196.218 (1) (c) of the statutes is amended to read:

196.218 (1) (c) “Universal service” includes the availability of a basic set of essential telecommunications services and access to advanced service capabilities of a modern telecommunications infrastructure anywhere in this state.

SECTION 82. 196.218 (3) (a) 3m. of the statutes is amended to read:

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

SECTION 83. 196.218 (3) (f) of the statutes is amended to read:

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

SECTION 84. 196.218 (4) of the statutes is repealed and recreated to read:

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

(b) Notwithstanding par. (a), if a commercial mobile radio service provider is designated or seeks designation as an eligible telecommunications carrier pursuant to [47 USC 214](#) (e) for the purpose of federal universal service funding and not for the purpose of state universal service

funding, the commercial mobile radio service provider is not subject to any eligible telecommunications carrier requirements imposed by the commission and shall be subject only to the eligible telecommunications carrier requirements imposed by 47 USC 214 (e) (1) and regulations and orders of the federal communications commission implementing 47 USC 214 (e) (1).

SECTION 85. 196.218 (5) (a) 2. of the statutes is repealed.

SECTION 86. 196.218 (5) (b) of the statutes is amended to read:

196.218 (5) (b) The commission shall promulgate rules to determine whether a telecommunications provider, the customers of a telecommunications provider or another person shall be assisted by the universal service fund for any use under par. (a) 1. ~~to~~ and 4.

SECTION 87. 196.218 (5) (c) 5. of the statutes is amended to read:

196.218 (5) (c) 5. The extent to which the fund preserves and promotes an available and affordable basic set of essential telecommunications services, ~~encourages access to the advanced service capabilities of a modern telecommunications infrastructure throughout the state and promotes economic development.~~

SECTION 88. 196.218 (5r) (a) 1. of the statutes is amended to read:

196.218 (5r) (a) 1. The affordability of and accessibility to a basic set of essential telecommunications services ~~and of advanced service capabilities throughout this state.~~

SECTION 89. 196.218 (5r) (a) 4. of the statutes is amended to read:

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

SECTION 90. 196.219 (1) (b) of the statutes is amended to read:

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

SECTION 91. 196.219 (2) (a) of the statutes is amended to read:

196.219 (2) (a) Notwithstanding any exemptions identified in this chapter except ~~s. ss. 196.202, 196.203, 196.206, and 196.50,~~ a telecommunications utility or provider shall provide protection to its consumers under this section unless exempted in whole or in part by rule or order of the commission under this section. The commission shall promulgate rules that identify the condi-

tions under which provisions of this section may be suspended.

SECTION 92. 196.219 (2m) of the statutes is repealed.

SECTION 93. 196.219 (2r) of the statutes is created to read:

196.219 (2r) SWITCHED ACCESS RATES. Any reduction in intrastate switched access rates ordered by the commission prior to the effective date of this subsection ... [LRB inserts date], including any reduction ordered pursuant to s. 196.195, 2009 stats., shall remain effective unless modified by the commission in a subsequent order, or unless the ordered reduction is inconsistent with the requirements of s. 196.212.

SECTION 94. 196.219 (3) (h) of the statutes is repealed.

SECTION 95. 196.25 (1) of the statutes is amended to read:

196.25 (1) If a public utility, other than a public utility that is a telecommunications provider, receives from the commission any questionnaire, the public utility shall respond fully, specifically and correctly to each question. If a public utility is unable to answer any question, the public utility shall give a good and sufficient reason for its failure. Every answer by a public utility under this section shall be verified under oath by ~~the president, secretary, superintendent or general~~ a manager of the public utility and returned to the commission at its office within the period fixed by the commission.

SECTION 96. 196.25 (2) of the statutes is amended to read:

196.25 (2) If required by the commission, a public utility, other than a public utility that is a telecommunications provider, shall deliver to the commission the original or a copy of any map, profile, contract or engineer's report and any other document, book, account, paper or record with a complete inventory of all its property, in such form as the commission directs.

SECTION 97. 196.25 (3) of the statutes is amended to read:

196.25 (3) If a telecommunications provider receives a questionnaire from the commission, the telecommunications provider shall respond specifically, correctly and fully to each question that relates to a matter over which the commission has jurisdiction. If a telecommunications provider is unable to answer any question, the telecommunications provider shall give a good and sufficient reason for its failure. Answers shall be verified under oath by ~~the president, secretary, superintendent or general~~ a manager of the telecommunications provider. A completed questionnaire shall be returned to the commission within the time period specified by the commission.

SECTION 98. 196.26 (1) (a) of the statutes is amended to read:

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

SECTION 99. 196.26 (4) of the statutes is repealed.

SECTION 100. 196.28 (4) of the statutes is amended to read:

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

SECTION 101. 196.31 (1m) of the statutes is amended to read:

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

SECTION 102. 196.37 (3) of the statutes is amended to read:

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

SECTION 103. 196.37 (4) of the statutes is amended to read:

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

SECTION 104. 196.49 (1) (ag) of the statutes is repealed.

SECTION 105. 196.49 (3) (b) (intro.) of the statutes is amended to read:

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

SECTION 106. 196.49 (3) (d) of the statutes is repealed.

SECTION 107. 196.50 (title) of the statutes is amended to read:

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

SECTION 108. 196.50 (1) (b) 1. and 2. of the statutes are repealed.

SECTION 109. 196.50 (1) (b) 3. of the statutes is renumbered 196.50 (1) (b).

SECTION 110. 196.50 (2) (b) of the statutes is amended to read:

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

SECTION 111. 196.50 (2) (e) 1. of the statutes is amended to read:

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

SECTION 112. 196.50 (2) (f) of the statutes is amended to read:

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

SECTION 113. 196.50 (2) (g) 3. of the statutes is repealed.

SECTION 114. 196.50 (2) (h) of the statutes is repealed.

SECTION 115. 196.50 (2) (i) of the statutes is created to read:

196.50 (2) (i) A telecommunications utility certified under this subsection is exempt from ss. 196.02 (2) and (6), 196.05, 196.06, 196.07, 196.08, 196.09, 196.10, 196.12, 196.13, 196.16, 196.18, 196.19, 196.20, 196.21, 196.219 (3) (c), (e), (g), and (L), (4d), (4m), and (5), 196.24, 196.395, 196.49, 196.52, 196.58, 196.60, 196.64, 196.78, and 196.79 and, except with respect to

wholesale telecommunications service, is exempt from s. 196.219 (4).

SECTION 116. 196.50 (2) (j) of the statutes is created to read:

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

a. Provide notice to the commission to terminate the certification under this subsection and certify the telecommunications utility as an alternative telecommunications utility under s. 196.203. No later than 30 days after receiving notice under this subd. 1. a., the commission shall issue an order granting a certification under s. 196.203. The granting of such certification shall operate to terminate the certification under this subsection. All regulatory requirements in or related to the certification under this subsection that are inconsistent with the requirements of or regulation allowed under s. 196.203, including all such requirements imposed by the certification and all such requirements imposed by the commission, whether by statute or commission rule or order, on the telecommunications utility are terminated on the effective date of the order, unless the telecommunications utility, in its notice to the commission seeking certification under s. 196.203, requests to remain subject to one or more requirements of its prior certification under this subsection that do not violate the telecommunications utility's requirements or obligations under this chapter and the commission does not deny the request in its order pursuant to this subd. 1. a. granting certification under s. 196.203.

b. Provide notice to the commission to recertify the telecommunications utility under this subsection and impose on the telecommunications utility only those provisions of this chapter specified in this subd. 1. b. No later than 30 days after receiving notice under this subd. 1. b., the commission shall issue an order that grants recertification under this subsection and that imposes on the telecommunications utility only those provisions of this chapter specified in this subd. 1. b. The telecommunications utility shall be exempt from all provisions of this chapter, except ss. 196.01, 196.016, 196.025 (6), 196.191, 196.206, 196.212, 196.219 (2r), and 196.503; and except those provisions in s. 196.203 (4m) (a) that are imposed on all alternative telecommunications utilities under s. 196.203 (3); and except, with respect to its wholesale telecommunications services only, ss. 196.03 (1) and (6), 196.219 (4), 196.28, and 196.37. If required by the public interest, the commission may, with respect only to intrastate switched access services, impose on the telecommunications utility s. 196.03 (1) and (6) and 196.37, except that the commission may not impose s. 196.03 (1) or (6) without also imposing s. 196.37 on the telecommunications utility. The granting of the recertification shall operate to terminate the telecommunications utility's prior certification. All regulatory requirements related to the prior certification that are

inconsistent with the requirements of or regulation allowed under this subd. 1. b., including all such requirements imposed by the certification, and all such requirements imposed by the commission, whether by statute or commission rule or order, on the telecommunications utility are terminated on the effective date of the order unless the telecommunications utility, in its notice to the commission seeking recertification under this subd. 1. b., requests to remain subject to one or more requirements of its prior certification that do not violate the telecommunications utility's requirements or obligations under this chapter and the commission does not deny the request in its recertification order.

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

a. The requirements of [47 USC 251](#) (c) (1) and (2).

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

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

a. The requirements of [47 USC 251](#) (b) and (c) (1) and (2).

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

SECTION 117. 196.503 of the statutes is created to read:

196.503 Telecommunications provider of last-resort obligations. (1) **DEFINITIONS.** In this section, "basic voice service" means the provision to residential customers of 2-way voice communication within a local calling area. "Basic voice service" includes extended community calling and extended area service. "Basic voice service" does not include the offering of Internet access service or any discretionary or optional services that are provided to a residential customer, even if provided in a bundle or package with basic voice service.

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

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

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

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

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

2. The commission has made a previous finding of effective competition under s. 196.195 (2), 2009 stats., for basic local exchange service in the local exchange. The commission may not grant a waiver under this subdivision until after June 1, 2012.

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

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

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

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

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

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

SECTION 118. 196.52 (3) (b) 1. of the statutes is amended to read:

196.52 (3) (b) 1. The requirement for written approval under par. (a) shall not apply to any contract or arrangement if the amount of consideration involved is not in excess of \$25,000 or 5% of the equity of the public utility, whichever is smaller. The requirement under par. (a) also does not apply to a telecommunications utility

contract or arrangement or to contracts or arrangements with joint local water authorities under s. 66.0823. Regularly recurring payments under a general or continuing arrangement which aggregate a greater annual amount may not be broken down into a series of transactions to come within the exemption under this paragraph. Any transaction exempted under this paragraph shall be valid or effective without commission approval under this section.

SECTION 119. 196.52 (3) (c) (intro.) of the statutes is amended to read:

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

SECTION 120. 196.52 (5) (a) of the statutes is renumbered 196.52 (5).

SECTION 121. 196.52 (5) (b) of the statutes is repealed.

SECTION 122. 196.52 (6) of the statutes is amended to read:

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

SECTION 123. 196.52 (9) (e) of the statutes is amended to read:

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

SECTION 124. 196.60 (1) (a) of the statutes is amended to read:

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

SECTION 125. 196.60 (2) of the statutes is repealed.

SECTION 126. 196.604 of the statutes is amended to read:

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

SECTION 127. 196.77 of the statutes is repealed.

SECTION 128. 196.79 (1) of the statutes is renumbered 196.79 and amended to read:

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

SECTION 129. 196.79 (2) of the statutes is repealed.

SECTION 130. 196.805 of the statutes is repealed.

SECTION 131. 196.81 (3) of the statutes is amended to read:

196.81 (3) This section does not apply to a service discontinuance by a ~~telecommunications~~ public utility that is a telecommunications provider.

SECTION 132. 196.975 (1) of the statutes is renumbered 196.975 (1r) and amended to read:

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

SECTION 133. 196.975 (1g) of the statutes is created to read:

196.975 (1g) In this section, “consumer” means a person billed for one or more local telecommunications service access lines not to exceed one person per access

line. A person billed for more than one access line may not be considered a consumer for each access line for which he or she is billed.

SECTION 134. 196.975 (2) of the statutes is amended to read:

196.975 (2) After receiving a petition under sub. (4) (1r), the commission shall schedule a public hearing, to be held in the local exchange area of the petitioners, serving to receive testimony on the contents of the petition and any other matters deemed relevant by the commission. The commission shall publish a class 1 notice under ch. 985 in a newspaper serving the local exchange area at least 20 days prior to the hearing.

SECTION 135. 201.01 (2) of the statutes is amended to read:

201.01 (2) “Public service corporation” means and embraces every corporation, except municipalities and other political subdivisions, which is a public utility as defined in s. 196.01, and every corporation which is a water carrier as defined in s. 195.02, but shall not include a public utility corporation receiving an annual gross revenue of less than \$1,000 for the calendar year next preceding the issuance of any securities by it. “Public service corporation” includes a holding company, as defined under s. 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). “Public service corporation” does not include a telecommunications utility provider, as defined in s. 196.01 (4) (8p). “Public service corporation” does not include any other holding company unless the holding company was formed after November 28, 1985, and unless the commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate, as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do at least one of the items specified in s. 196.795 (7) (a). “Public service corporation” does not include a company, as defined in s. 196.795 (1) (f), which owns, operates, manages or controls a telecommunications utility provider, as defined in s. 196.01 (4) (8p), unless such company also owns, operates, manages or controls a public utility which is not a telecommunications utility provider. “Public service corporation” does not include a transmission company, as defined in s. 196.485 (1) (ge).

SECTION 136. 201.15 of the statutes is repealed.

SECTION 137. 943.45 (1) (intro.) of the statutes is amended to read:

943.45 (1) (intro.) No person may intentionally obtain or attempt to obtain telecommunications service, as defined in s. ~~196.01 (9m)~~ 182.017 (1g) (cq), by any of the following means:

SECTION 138. Nonstatutory provisions.

(1) In this SECTION:

(a) “Alternative telecommunications utility” has the meaning given in section 196.01 (1d) of the statutes, as affected by this act.

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(b) “Commission” means the public service commission.

(c) “Price-regulated telecommunications utility” means a telecommunications utility that elected to become a price-regulated telecommunications utility under section 196.196 (1) or (4), 2009 stats.

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

(2) Except as provided in section 196.195 of the statutes, as affected by this act, and section 196.219 (2r) of the statutes, as created by this act, on the effective date of this subsection, any requirement imposed by the com-

mission under section 196.195 (5), 2009 stats., or section 196.196, 2009 stats., whether by statute or commission rule or order, on a price-regulated telecommunications utility is terminated.

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