

1999 SENATE BILL 91

March 18, 1999 – Introduced by Senators MOEN and RISSER, cosponsored by Representatives BOCK, MUSSER, TRAVIS, OTT, UNDERHEIM, BLACK, YOUNG and CARPENTER. Referred to Committee on Health, Utilities, Veterans and Military Affairs.

1 **AN ACT to renumber** 196.219 (2m); **to amend** 196.196 (2) (a) and 196.203 (1); and
2 **to create** 196.19 (1m) (f), 196.219 (2m) (a), 196.219 (2m) (b) (title), 196.219 (2m)
3 (c) and 196.219 (2m) (d) of the statutes; **relating to:** access service rates
4 charged to certain telecommunications providers.

Analysis by the Legislative Reference Bureau

This bill imposes restrictions on the rates that large telecommunications utilities may charge for providing access services to pay telephone service providers and unaffiliated telecommunications providers. Under current law, an “access service” is defined as the provision of access to a local exchange network for the purpose of originating or terminating a telecommunications service. Under this bill, a “large telecommunications utility”, which the bill defines as a telecommunications utility with more than 150,000 access lines in this state, that provides an access service to a pay telephone service provider may only charge a rate for the service that satisfies the following two criteria:

1. The access rate may not allow the large telecommunications utility to recover more than its direct costs and a reasonable allocation of its overhead costs in providing the service.
2. The access rate must comply with certain regulations and orders issued by the federal communications commission.

Under the bill, a large telecommunications utility must file tariffs with the public service commission (PSC) for providing access services to pay telephone service providers and for modifying access rates and must notify pay telephone

SENATE BILL 91

service providers about rate modifications. In addition, a large telecommunications utility that provided an access service to a pay telephone service provider between April 15, 1997, and the effective date of the bill must provide cost support data to the PSC that allows the PSC to determine whether the access rate charged for the service satisfies the two criteria described above. If the PSC determines that the access rate does not satisfy the criteria, the PSC must determine a satisfactory rate and order the large telecommunications utility to provide a refund to the pay telephone service provider for any charge that exceeds the rate determined by the PSC.

In addition, under the bill, a large telecommunications utility or a holding company that operates or controls a large telecommunications utility may not, unless approved by the PSC, charge an access rate to an unaffiliated telecommunications provider that is greater than the lowest compensation rate that the large telecommunications utility or holding company charges to itself, an affiliate or any other telecommunications provider for the same or similar service, basic network function or element used for terminating or transporting a local exchange call.

The PSC may approve an access rate that exceeds the above rate only if the PSC finds, after a hearing, that the large telecommunications utility or holding company has experienced a substantial change in circumstances that justifies the rate and that the rate satisfies each of the following:

1. The access rate will not have an anticompetitive impact on competitors.
2. The access rate does not exceed the large telecommunications utility's or holding company's total service long-run incremental costs in providing the service.
3. The access rate is in the public interest.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 196.19 (1m) (f) of the statutes is created to read:
- 2 196.19 (1m) (f) This subsection does not apply to a tariff specified in s. 196.219
- 3 (2m) (c) 3.
- 4 **SECTION 2.** 196.196 (2) (a) of the statutes is amended to read:
- 5 196.196 (2) (a) Except as required to enforce this subsection and the
- 6 requirements of s. 196.219 (2m) or 1999 Wisconsin Act (this act), section 9, the
- 7 commission may not review or set the rates for intrastate access services offered by

SENATE BILL 91

1 price-regulated telecommunications utilities. This paragraph does not waive the
2 tariff requirements of s. 196.219 (2m).

3 **SECTION 3.** 196.203 (1) of the statutes is amended to read:

4 196.203 (1) Except as provided in this section and s. 196.219 (2m), alternative
5 telecommunications utilities are exempt from all provisions of ch. 200 and this
6 chapter.

7 **SECTION 4.** 196.219 (2m) of the statutes is renumbered 196.219 (2m) (b).

8 **SECTION 5.** 196.219 (2m) (a) of the statutes is created to read:

9 196.219 (2m) (a) *Definitions.* In this subsection:

10 1. “Access rate” means any rate, fee, price or amount for the provision of an
11 access service or any basic network function or element that comprises an access
12 service or any traffic sensitive or nontraffic sensitive charge.

13 2. “Affiliate of a large telecommunications utility” means any person who
14 controls, is controlled by or is under common control with a large telecommunications
15 utility.

16 3. “Holding company” means a holding company, as defined in s. 196.795 (1) (h)
17 1., that owns or controls a large telecommunications utility.

18 4. “Large telecommunications utility” means a telecommunications utility with
19 more than 150,000 access lines in this state.

20 5. “Unaffiliated telecommunications provider” means a telecommunications
21 provider, other than a pay telephone service provider, that is not an affiliate of a large
22 telecommunications utility.

23 **SECTION 6.** 196.219 (2m) (b) (title) of the statutes is created to read:

24 196.219 (2m) (b) (title) *Nondiscrimination.*

25 **SECTION 7.** 196.219 (2m) (c) of the statutes is created to read:

SENATE BILL 91

1 196.219 **(2m)** (c) *Pay telephone service providers.* 1. A large
2 telecommunications utility that provides an access service to a pay telephone service
3 provider may only charge an access rate for the service that satisfies each of the
4 following:

5 a. The access rate does not allow the large telecommunications utility to recover
6 more than its direct costs and a reasonable allocation of its overhead costs in
7 providing the access service to the pay telephone service provider.

8 b. The access rate complies with the regulations promulgated and orders issued
9 by the federal communications commission under 47 USC 276.

10 2. A large telecommunications utility shall file tariffs with the commission for
11 the provision of any access service to a pay telephone service provider and for the
12 modification of any access rates. A filing under this subdivision shall include cost
13 support data that is consistent with the requirements of 47 CFR 61.49. At the time
14 of a filing, the large telecommunications utility shall provide written notice of any
15 modification of an access rate to its customers who are pay telephone service
16 providers. The commission shall approve or modify a tariff filed under this
17 subdivision only if the commission determines that the proposed or modified access
18 rate satisfies the requirements of subd. 1.

19 **SECTION 8.** 196.219 (2m) (d) of the statutes is created to read:

20 196.219 **(2m)** (d) *Unaffiliated telecommunications providers.* 1. A large
21 telecommunications utility or a holding company may not charge an access rate to
22 an unaffiliated telecommunications provider that exceeds the lowest compensation
23 rate or combination of rates that it charges, whether by tariff or agreement, to itself,
24 an affiliate of the large telecommunications utility or any other telecommunications
25 provider for the same or similar service, basic network function or element used for

SENATE BILL 91

1 the termination or transport of a local exchange call, including extended community
2 calling or extended area service calling.

3 2. Notwithstanding subd. 1., a large telecommunications utility or holding
4 company may petition the commission for approval to charge an unaffiliated
5 telecommunications provider an access rate that exceeds an access rate specified in
6 subd. 1. The commission may grant its approval after notice to all interested parties
7 and a hearing if the commission finds that the large telecommunications utility or
8 holding company has established, by clear and convincing evidence, each of the
9 following:

10 a. That the large telecommunications utility or holding company has
11 experienced a substantial change in circumstances that justifies the petitioned
12 access rate.

13 b. That the petitioned access rate will not have an anticompetitive impact on
14 any competitor of the large telecommunications utility or holding company.

15 c. That the petitioned access rate does not exceed the large telecommunications
16 utility's or holding company's total service long-run incremental costs in providing
17 the access service.

18 d. That the petitioned access rate is in the public interest.

19 **SECTION 9. Nonstatutory provisions.**

20 (1) DEFINITIONS. In this SECTION:

21 (a) "Access rate" has the meaning given in section 196.219 (2m) (a) 1. of the
22 statutes, as created by this act.

23 (b) "Access service" has the meaning given in section 196.01 (1b) of the statutes.

24 (c) "Commission" means the public service commission.

SENATE BILL 91

1 (d) “Large telecommunications utility” has the meaning given in section
2 196.219 (2m) (a) 4. of the statutes.

3 (e) “Pay telephone service provider” has the meaning given in section 196.01
4 (4m) of the statutes.

5 (f) “Telecommunications provider” has the meaning given in section 196.01 (8p)
6 of the statutes.

7 (2) ESTABLISHMENT OF ACCESS RATES.

8 (a) No later than the first day of the 2nd month beginning after the effective
9 date of this paragraph, any large telecommunications utility that provided an access
10 service to a pay telephone service provider at any time during the period beginning
11 on April 15, 1997, and ending on the effective date of this paragraph shall provide
12 cost support data regarding the access rate charged for the access service to the
13 commission that, as determined by the commission, is sufficient for the commission
14 to make the determination required under paragraph (b) and that is consistent with
15 the requirements of 47 CFR 61.49.

16 (b) No later than 90 days after the commission receives cost support data from
17 a large telecommunications utility under paragraph (a), the commission shall
18 determine whether the access rate satisfies the requirements under section 196.219
19 (2m) (c) 1. of the statutes, as created by this act. If the commission determines that
20 an access rate does not satisfy the requirements, the commission shall establish a
21 rate that satisfies the requirements and shall order the large telecommunications
22 utility to refund to a pay telephone service provider any access rates charged for the
23 period beginning on April 15, 1997, and ending on the effective date of the
24 commission’s order under this paragraph that exceed the rate established by the
25 commission. The commission shall hold a hearing to review a determination made

SENATE BILL 91

1 or a rate established under this paragraph if, no later than 45 days after issuing an
2 order under this paragraph, an interested party requests a hearing.

3 **SECTION 10. Effective date.**

4 (1) This act takes effect on the first day of the 2nd month beginning after
5 publication.

6 (END)