

**Testimony before the Wisconsin State Senate Committee on Health, Utilities,
Veterans and Military Affairs**

Submitted by

Joel Dohmeier

TDS Telecommunications Corporation

March 8, 2000

Chairman Moen, members of the committee—thanks for giving me the opportunity to testify before the Senate Committee on Health, Utilities, Veterans and Military Affairs.

Let me first say, I appreciate the committee's willingness to hold such an open forum where the merits of government owned telecommunications competition can be further explored.

As way of background, let me first provide you a brief sense of my company and then elaborate on where we stand regarding SB 385.

TDS TELECOM is an incumbent local exchange carrier, or ILEC, that owns and operates 15 local telephone companies in the State of Wisconsin.

To give you a flavor of some of our serving areas, we provide local phone service in such communities as Verona, Waunakee, Monroe, Vesper, Fennimore, Alma, and Blanchardville.

From this list, it should be clear that none of these areas are raging metropolis', but rather, fairly suburban and rural communities in nature.

That's a great snapshot of the types of local phone companies we have owned and operated in Wisconsin for the last 30 years.

In relation to the quality of service my company provides, I would refer to a Wisconsin State Journal article that profiled TDS TELECOM in 1999. From the article I quote, "While telephone companies around the country are consolidating community offices into regional call centers, TDS TELECOM keeps local offices open. It has 114 business offices, staffed by town residents around the country. The article goes on to say, "the idea apparently succeeds.

Of the 15 TDS TELECOM-owned and operated companies in Wisconsin, only 52 complaints were filed with the state public service commission in 1998, an average of 3.5 per company.

Having said that, TDS TELECOM is growing exponentially and is not simply a small town phone provider. Currently, TDS TELECOM is Dane County's 6th largest employer. One of the reasons for our exciting growth is that as a company, we have always closely followed law and regulation as it relates to the telecommunications industry. As you well know, the Wisconsin State Legislature passed Act 496, a sweeping overhaul of the telecommunications industry in Wisconsin.

This progressive action, in my opinion, served as one of the catalysts for the federal government to pass the Telecommunications Act of 1996.

With passage of these two landmark pieces of legislation, TDS TELECOM has been able to broaden the scope of our business livelihood to include the development of a competitive local exchange carrier or CLEC, TDS METROCOM. While not everyone in this room might be familiar with the term CLEC, think of it as a private phone company with a license to compete with the incumbent phone provider of an area for market share.

To illustrate a CLEC in action, we need look no further than here in Madison. Since 1998, TDS METROCOM, an entirely new competitive phone provider to the Madison market, has made great inroads by offering local service and tailored options to business and residential customers at a lower price.

From this initial success experienced in Madison, TDS METROCOM has now expanded operations to Green Bay, Appleton, Neenah, Menasha, Fond du Lac, Oshkosh and east to Waukesha.

The point of my illustration is this. Private telephone competition is alive and thriving in Wisconsin. Through good public policy, private companies such as TDS TELECOM have capitalized on opportunities presented to us to make new and exciting revenues in the telecommunications business.

When municipal governments suggest their entry into the complicated, expensive and technologically challenging local phone and Internet business makes sense because there is no local phone competition in the state, I say nonsense; the evidence is before us.

Recently, a group of interested parties led by the League of Wisconsin Municipalities have contacted you to express their collective view on SB 385, the Huebsch/Shibilski Municipal Telco prohibition.

I respectfully take issue with their position on this important matter. The Huebsch/Shibilski bill is strong and straightforward. It's primary goal is to prohibit municipal governments from using taxpayer dollars to develop telecommunications utilities.

As a progressive public policy leader, it would make very little sense for the Wisconsin State Legislature to allow such a dangerous precedent such as the creation of government driven telecommunications competition to occur. Furthermore, as I said in my earlier remarks, private sector local telephone competition is alive and thriving in Wisconsin.

Companies large and small are entering new markets such as Milwaukee and Madison, but also the likes of smaller communities such as Waukesha, Neenah, Oshkosh and Fond du Lac to offer consumers a choice providers.

To that end, TDS TELECOM, and our competitive business TDS METROCOM, strongly support and are actively encouraging competition, as long as the playing field is level and consumers best interests are considered.

Encouraging municipal governments to compete with an incumbent telephone provider ensures two adverse things will occur. First, the incumbent will choose to stop investing in the infrastructure of the area targeted by a municipality for entry. They simply cannot compete with the taxing and bonding authority of a municipality. Second, and perhaps more importantly, no new competitor will enter a market where they would have to compete with a municipality that also, in many instances, serves as the new entrants regulator on matters such as rights of way and local certification, among others.

In short, allowing municipalities to enter the local telephone business as they have requested might have made sense back in the 1920's when Wisconsin's municipal electric cooperatives formed to provide electricity to rural areas.

TDS TELECOM however, suggests that we are not living in the 1920's and prohibiting municipalities from stifling local phone competition only makes sense and is good for consumers.

Legislators, to conclude my brief testimony, I ask you to do the right thing for telephone consumers in your district. Support the Huebsch/Shibilski Municipal Telco prohibition.

Send a strong message to municipal governments —less government intervention is better and perhaps, more importantly, municipalities have no business in the telephone business!

At this time, I would like to collectively thank all of you for giving me the opportunity to present TDS TELECOM'S views on SB 385 before the committee.

I welcome any questions you might have.

**RESOLUTION OPPOSING ASSEMBLY BILL 747
AND SENATE BILL 385**

WHEREAS, Assembly Bill 747 and Senate Bill 385 seek to prohibit local governments from providing telecommunications service and Internet access service to the public; and

WHEREAS, the bills would dismantle a key component of 1993 Wis. Act 496, the Information Superhighway Act; and

WHEREAS, the law specifically authorized municipalities to provide these services in an effort to encourage competition and to avoid the anti-competitive abuses of the market in a deregulated environment; and

WHEREAS, it is important that local government retain the ability to provide telecommunications services in the event that private providers are unwilling to serve the needs of local customers; and

WHEREAS, this proposed legislation is contrary to the best interests of the City of Two Rivers, which in 1999 installed a 7-mile fiber optic network, through a cooperative agreement with the Two Rivers Public Schools, for school and community use; and

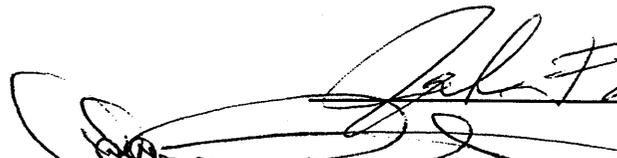
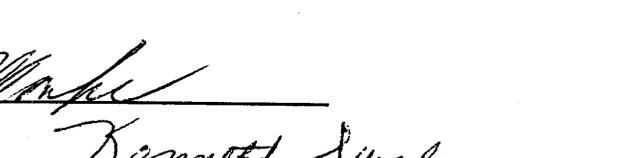
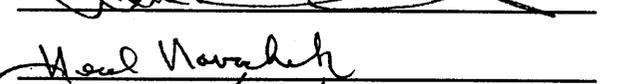
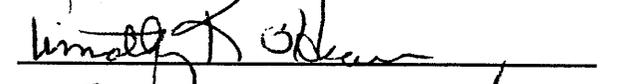
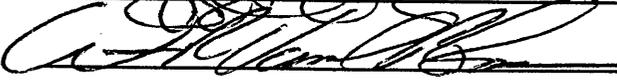
WHEREAS, these bills are opposed by a number of local government and educational interest groups, including: the Municipal Electric Utilities of Wisconsin (MEUW), Wisconsin Alliance of Cities, Wisconsin Federation of Teachers, Wisconsin Education Association Council, Wisconsin Libraries Association, Wisconsin Counties Association, and Wisconsin Association of School Boards; and

WHEREAS, it is contrary to the public interest to pre-empt an existing right of Wisconsin municipalities, through anti-competitive legislation promoted by the telecommunications industry for its own benefit, at the expense of consumers;

NOW, THEREFORE, BE IT RESOLVED that the City of Two Rivers opposes Assembly Bill 747 and Senate Bill 385, prohibiting local governments from providing telecommunications service and Internet access service to the public.

BE IT FURTHER RESOLVED that the City Manager is hereby directed to send copies of this resolution to Senator Alan Lasee, Representative Frank Lasee, Governor Tommy Thompson, and the offices of the MEUW, League of Wisconsin Municipalities, and Wisconsin Alliance of Cities.

Dated this 6th day of March, 2000

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RESOLUTION OPPOSING ASSEMBLY BILL 747 and SENATE BILL 385

WHEREAS, Assembly Bill 747 and Senate Bill 385 prohibit local governments from providing telecommunications service and Internet access service to the public; and

WHEREAS, the bills would dismantle a key component of 1993 Wis. Act 496, the Information Superhighway Act; and

WHEREAS, the law specifically authorized municipalities to provide these services in an effort to encourage competition and to avoid the anti-competitive abuses of market in a deregulated environment; and

WHEREAS, it is important that local government retain the ability to provide telecommunications services in the event that private providers are unwilling to serve the needs of local customers.

NOW, THEREFORE, BE IT RESOLVED that the City of Oconomowoc opposes Assembly Bill 747 and Senate Bill 385, prohibiting local governments from providing telecommunications service and Internet access service to the public.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to local legislators and the League of Wisconsin Municipalities.

Dated: March 7, 2000

J. Thomas Foti
J. Thomas Foti, Mayor

Attest:

Wendy Angles
City Clerk



March 1, 2000

The Honorable David Hutchison
Chairperson, Assembly Information Policy Committee
1st Assembly District
State of Wisconsin

Dear Representative Hutchison:

On behalf of the Wisconsin Education Association Council and the Wisconsin Federation of Teachers, I thank you for the opportunity to comment and submit amendments to Assembly Bill 747, relating to prohibiting school districts, technical college districts, CESAs and others from providing certain telecommunication and Internet services.

We appreciate the chair's and the Wisconsin State Telecommunications Association's efforts to amend the bill to render it less harmful to educational entities. However, after further review and careful consideration of testimony presented at the hearing, we conclude that the bill is inherently flawed and further amendments will not cure it. In our written testimony, we raised three primary points of objection to the bill which result from our adherence to an educational technology directive adopted by the WEAC Representative Assembly. To re-state:

"WEAC's Representative Assembly has voted to support the legislative objective of continuous expansion and implementation of educational technology and telecommunications initiatives, including staff development. "

We continue to assert that AB 747, even with amendments, flies in a direction opposite to this objective. Our third written point of objection stands even under the bill as proposed to be amended:

"3) AB 747 restricts the options schools have to purchase telecommunications and Internet services. School districts work diligently to provide education services to children while spending their resources in the wisest manner. Under revenue caps, it is particularly critical that schools are not limited in their flexibility to choose the best option for investment, in this case in telecommunications services."

This objection was underscored by testimony from the wide range of groups opposing AB 747 at last week's hearing. This bill restricts options, both now and for future telecommunications needs. We concur with the Wisconsin Department of Public Instruction's testimony:

"The overall tenor of this bill is anticompetitive and will have a chilling effect on encouraging other non-traditional parties to provide telecommunication and Internet services. I do not believe this was the intent of the state's telecommunications deregulation act (1993 Act 496). There are those who may claim that allowing nontraditional providers (municipal utilities, commercial utilities, cable providers, schools, CESAs, etc.) to become telecommunications utilities will actually inhibit competition. Yet it has been over five years since passage of Act 469 and still most areas of the state do not have local phone competition (. . .). Therefore, the Department of Public Instruction asks you not to support legislation that would further restrict potential providers of telecommunication services."

We understand and appreciate that the WSTA Board has voted to remove educational entities from the bill. However, based on the reasons listed above, WEAC and WFT continue to oppose AB 747 and urge the Committee – and the Legislature – to oppose any legislation which prohibits the widest range of service providers from meeting schools' needs for telecommunication services. Current law is preferable – we urge the committee's defeat of Assembly Bill 747.

Sincerely,

A handwritten signature in cursive script that reads "Tricia Yates".

Tricia Yates
Legislative Consultant
WEAC

Cc Members, Assembly Information Policy Committee
Tom Engels, WSTA



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**Senate Committee on Health, Utilities, Veterans and Military Affairs
Senator Rod Moen, Chairperson**

March 8, 2000

Paul Gabriel
Executive Director
Wisconsin Technical College District Boards Association

SB 385 -- Prohibiting Management and Control of Telecommunications Facilities

Chairperson Moen and members of the committee, I am testifying on behalf of the 144 district board members who govern Wisconsin's sixteen technical college districts.

As drafted, SB 385 would broadly prohibit Wisconsin Technical Colleges and our public education partners from owning, operating, managing and controlling telecommunications plant and equipment to provide education and training services to members of the public -- Wisconsin citizens, and business and industry. Under the bill's broad definitions, it would also prohibit or greatly constrain our provision of education and training to the public using the Internet. This includes our ability to at least indirectly "sell" services to the public through cost-recovery contracts such as custom training contracts with Wisconsin businesses. The Wisconsin Technical College District Boards are vigorously opposed to such a bill.

AB 747, the Assembly companion bill, has already been the subject of a hearing. The Assembly sponsors have worked hard to amend AB 747 to meet the education community's concerns. The amendment offered at hearing on February 24th improved the bill but did not change its restrictions on our ability to own and manage telecommunications equipment to provide services to "members of the public."

For example, the amended bill would still prohibit our owning or controlling the network equipment, or providing services, or recovering the cost of services offered between a technical college and: a local industry, a job center that is owned by a private landlord, community centers that may not be owned by a government subdivision, or private schools. Besides the original bill's applicability to school districts, cooperative education service agencies, and public libraries, the Assembly amendment also brings state agencies under its prohibitions, including the Wisconsin Technical College System Board, UW System, TEACH Board, and DOA.

Technical Colleges in no way intend to sell telephone or Internet access unrelated to the provision of instruction or training. A carefully tailored bill would essentially reflect current law; that is, that we can use telecommunications and Internet technology within the scope of authority we have to serve the state's education and training needs. This obviates the need for our inclusion in the bill.

Our citizens are protected from unfair competition by technical colleges in a variety of ways. Our district boards are comprised of local officials who represent employers, employees, local government, school districts, and the community at large. They approve any expenditure of more than \$2,500. They must take to district-wide referendum any capital expenditure of \$500,000 or more. Every district has a private industry competition advisory committee of local citizens. These committees assure that college activities are in the district's best interest, but do not intrude upon the right of private business to flourish in our community free from unfair public competition. Finally, our activities are also overseen by the shared governance with the WTCS (State) Board.

We cannot easily enumerate today the incredibly exciting opportunities we are already undertaking to serve our 440,000 students annually, and to fulfill 6,000 training contracts annually with Wisconsin businesses. Defining the activities we will be expected to undertake tomorrow is, of course, impossible, as is the ability to predict how the most rapidly changing world we have ever known will bring us a tomorrow even more astonishing in its technological tools and connectivity. Our tomorrow will continue to preserve the public's vital interest in our colleges being excellent stewards of the resources Wisconsin citizens dedicate to high-skill, high-wage education and training.

SB 385 would fundamentally constrain technical colleges, school districts, CESAs, libraries, and agencies from providing education and training services to the people and businesses of Wisconsin, and would constrain our ability to be the best possible stewards of public resources. It would impose these enormous costs without realizing any corresponding public policy gain for the state. We request this bill be amended to exclude Technical College Districts and the WTCS Board specifically, and all public educational institutions generally.



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone: (608) 266-1304
Fax: (608) 266-3830
Email: leg.council@legis.state.wi.us

DATE: February 23, 2000
TC: MEMBERS OF THE ASSEMBLY COMMITTEE ON INFORMATION POLICY
FROM: John Stolzenberg, Staff Scientist
SUBJECT: 1999 Assembly Bill 747, Relating to Prohibiting Governmental Subdivisions From Providing Certain Telecommunications Services and Internet Access Services and for Making Certain Transfers of Telecommunications Transmission Facilities, as Amended by Assembly Amendment ___ (LRBa1446/1)

This memorandum, prepared at the request of Representative David Hutchison, Chairperson of your committee, summarizes 1999 Assembly Bill 747 (the "bill") and an Assembly amendment to the bill, LRBa1446/1 (the "amendment"; copy attached). The bill relates to prohibiting governmental subdivisions from providing certain telecommunications services and Internet access services and from making certain transfers of telecommunications transmission facilities. Pursuant to Chairperson Hutchison's request, the memorandum also contains a brief discussion of governmental subdivision activities that would not be prohibited under the bill, as amended by the amendment.

As used in the bill, a "governmental subdivision" is a city, village, town, county, school district, cooperative educational service agency (CESA) or technical college district.

A. ASSEMBLY BILL 747

1. Prohibited Governmental Subdivision Activities

The bill prohibits a governmental subdivision from engaging in any of the following activities:

- a. Providing a telecommunications service in this state as a telecommunications utility, alternative telecommunications utility (ATU) or telecommunications carrier.

- b. Transferring a transmission facility in Wisconsin to another person if the facility is used to furnish a telecommunications service directly or indirectly to the public.
- c. Providing an Internet access service directly or indirectly to the public.

Since these prohibitions are placed in ch. 196, Stats., the telecommunications-related terms defined in s. 196.01 apply to these prohibitions. In particular, "telecommunications service" and "transmission facility" have the following meanings:

"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, 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. "Telecommunications service" does not include cable television service or broadcast service. [s. 196.01 (9m), Stats.]

"Transmission facility" means any plant or equipment used to carry telecommunications services by wire, optics, radio signal or other means. [s. 196.01 (12), Stats.]

The three types of telecommunications providers identified in the first prohibition include incumbent, local exchange telecommunications companies ("telecommunications utilities"), facilities-based long-distance telecommunications companies ("telecommunications carriers") and any of four types of ATUs (cable television telecommunications service providers, pay telephone service providers, telecommunications resellers and other telecommunications providers identified by the Public Service Commission (PSC), including competitive local exchange carriers). All of these types of telecommunications providers typically provide one or more types of telecommunications services within this state directly or indirectly to the public. [See s. 196.01 (1d), (1r), (4m), (8m), (9) and (10), Stats.]

For the second prohibition, the bill defines "transfer" to mean to sell, lease or transfer for consideration of any interest in ownership, title or right to use. An example of a transfer of a transmission facility is the leasing of a "dark fiber," that is, the leasing of a fiber optic cable itself without any associated service to convey information over the cable.

For the third prohibition, the bill defines "Internet access service" to mean a service that enables a user to obtain access to content, information, electronic mail or any other service offered over the Internet.

2. Prohibitions on PSC Authorizations

Consistent with the bill's prohibition on a governmental subdivision providing a telecommunications service in the state as a telecommunications utility, ATU or telecommunications carrier, the bill also prohibits the PSC from issuing the appropriate authorization to a governmental subdivision to become one of these three types of telecommunications providers. These

authorizations are a "determination" to become an ATU, a "certificate" to become a telecommunications carrier and a "certificate of authority" to become a telecommunications utility.

3. Effective Date and Initial Applicability

Since the bill does not contain an effective date provision, following enactment it takes effect on the day after the date of its publication pursuant to s. 991.11, Stats. The bill specifies that the three prohibitions described above first apply to services provided or facilities transferred under contracts entered into, extended, modified or renewed on the effective date of the bill.

B. ASSEMBLY AMENDMENT -- (LRBa1446/U)

1. Definition of "Governmental Subdivision"

The amendment makes two changes to the definition "governmental subdivision." First, it adds to the list of governmental entities that are a governmental subdivision a "public library system," as defined in s. 43.01 (5), Stats. This definition of "public library system" includes federated and consolidated public library systems. Under s. 43.19 (2) (a), Stats., a federated public library system whose territory lies within two or more counties or whose territory lies within a single county with a population of 500,000 or more constitutes a separate legal entity and thus was not included in the definition of "governmental subdivision" in the bill.

The second change to the definition of "governmental subdivision" is the addition of language that specifies that a governmental subdivision includes instrumentalities or corporations of any of the listed governmental entities or combinations or subunits of the listed governmental entities.

2. Definition of "Transmission Facility"

The amendment creates a definition of "transmission facility" that applies to the prohibition on a governmental subdivision transferring a transmission facility to another person, as described above in Section A. 1. This definition states:

"Transmission facility" means any plant or equipment used to transmit a telecommunications service by wire, optics, radio signal or other means. "Transmission facility" does not include any conduit, pole, tower or other structure that supports the plant or equipment used to transmit the telecommunications service.

3. Definition of "Public"

The amendment changes the reference in the prohibitions on a governmental subdivision transferring a transmission facility and providing the Internet access service from being transferred or provided directly or indirectly to the "public" to being transferred or provided directly

or indirectly to a "member of the public." The amendment defines "member of the public" to mean any person except a governmental subdivision.

4. Modification of the Prohibition on Providing Telecommunications Services

The amendment changes the prohibition relating to telecommunications service from a prohibition on a governmental subdivision providing a telecommunications service in this state as one of the specified telecommunications providers to a prohibition on a governmental subdivision providing a telecommunications service in this state directly or indirectly to a member of the public.

5. Modification of the Prohibition on Providing Internet Access Service

The amendment changes the prohibition relating to Internet access service from a prohibition on a governmental subdivision *providing* an Internet access service directly or indirectly to the public to a prohibition on a governmental subdivision *selling* an Internet access service directly or indirectly to a member of the public.

6. Exception for Intergovernmental Sharing of Services and Facilities

The amendment creates an exception on the prohibitions on a governmental subdivision providing a telecommunications service, transferring a transmission facility or selling an Internet access service if the governmental subdivision provides the telecommunications service, transfers the transmission facility or sells the Internet access service to a local governmental unit, state agency, federally recognized Indian tribe or band located in Wisconsin or volunteer fire company or fire department organized under ch. 213, Stats., under a contract or agreement under ch. 43, Stats. (library laws), or s. 66.30, Stats., or a similar contract or agreement for the sharing of services or facilities.

For purposes of this exception, the amendment creates a definition of "local governmental unit" that is a broad definition that includes all local governmental entities, their subunits and combinations of them, as well as combinations of local governmental entities with state agencies. The amendment also defines "state agency" as follows:

"State agency" means any office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, including the legislature and courts.

7. Exception for Internet Access Service Provided as Part of an Educational Service

The amendment establishes that the prohibition on a governmental subdivision selling an Internet access service directly or indirectly to a member of the public does not apply to a school district, CESA or technical college district that sells an Internet access service as part of the delivery by the school district, CESA or technical college district of an educational service, including an instructional service or related support service.

8. Conforming Amendments

The amendment changes the relating clause and the initial applicability provision to conform to the changes described above.

C. DISCUSSION

The bill, as amended by the amendment, contains a number of exceptions to the prohibitions on governmental subdivision activities set forth in the amended bill. Examples of activities that would not be prohibited under the bill, as amended by the amendment, with an indication of the basis of the exception presented in brackets, include the following:

- 1. A governmental subdivision that shares excess transmission facility capacity, such as "dark" fiber optic cables, with another governmental entity. [Intergovernmental sharing exception, exception in the definition of "member of the public" or both depending upon specific circumstances.]
- 2. A governmental subdivision that shares one or more telecommunications services with another governmental entity. [Intergovernmental sharing exception, exception in the definition of "member of the public" or both depending upon specific circumstances.]
- 3. A governmental subdivision that leases space on a water tower or communications tower for a cellular telephone company's or telecommunications utility's cellular telephone or microwave transmission equipment. [Exception in the definition of "transmission facility."]
- 4. A public library that provides to its patrons a work station from which the Internet may be accessed at no charge to the patron. [Conversion of the Internet access service prohibition from providing an Internet access service to selling an Internet access service.]
- 5. A school that provides access to the Internet to students, faculty or parents from their homes, such as through a dial-up service to the school, as part of the school's educational services. [Exception for Internet access service provided as part of an educational service.]

If you would like additional information on Assembly Bill 747 or LRBA1446/1, please feel free to contact me at the Legislative Council Staff offices.

JES:wu:ksm;wu;tlu

Attachment



State of Wisconsin Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
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John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

Testimony Before the Assembly Committee on Information Policy February 24, 2000

RE: Assembly Bill 747

Robert Bocher, Library Technology Consultant
(608-266-2127, fax 608-266-2529; robert.bocher@dpi.state.wi.us)

Members of the Assembly Committee on Information Policy, I am Bob Bocher, a library technology consultant in the Department of Public Instruction. I have been working in the area of library and information technology for almost twenty-five years.

The DPI has sent to the Assembly three letters in response to early drafts of this bill. Copies of those letters were sent to each member of this committee and to the cosponsors of the bill. My testimony today will be brief and will very closely parallel the points made in the department's third letter sent to you, dated February 21, 2000. I do understand that work is being done to address some of the issues below, but until the department can analyze the actual language of any amendments, the concerns below will stand.

1) Revenue caps on school districts are making district budget decisions increasingly difficult. To make the most efficient use of taxpayer dollars, schools must be able to select telecommunication and Internet services from any sources, including local exchange carriers, municipal utilities, commercial utilities, cable franchises, wireless providers, CESAs and others.

2) AB 747 appears to permit a "governmental subdivision" to build a wide area network (WAN) or metropolitan area network (MAN) to interconnect governmental subdivisions, including schools and libraries. The department seeks clarification in the bill's language affirming that such networks will be allowed.

3) Eighty-two percent of our state's 381 public libraries now provide Internet access for patrons. A literal reading of page 4, line 11, in the present bill could easily be interpreted as prohibiting such access. Our public libraries serve as access points to bridge the "Digital Divide" for that majority of citizens who do not have Internet access. It is imperative that our public libraries be able to offer Internet access to their patrons.

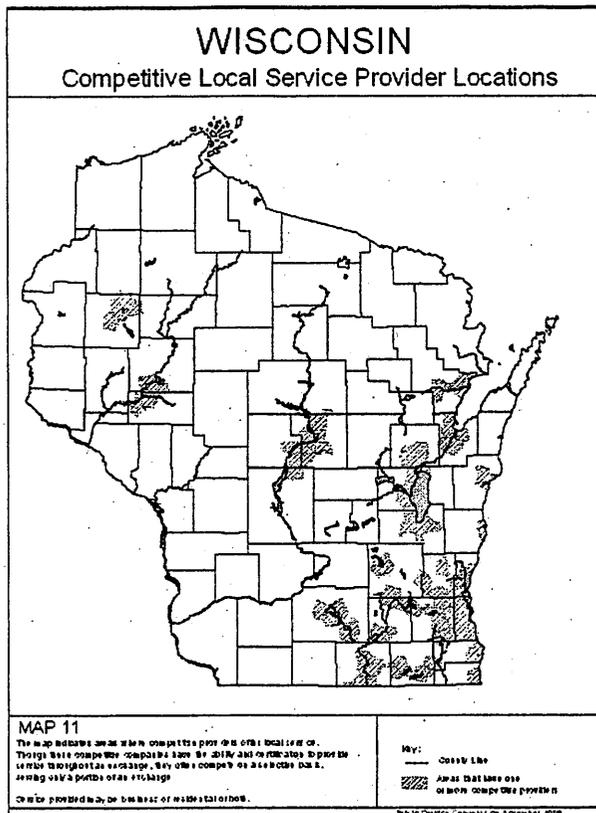
4) The overall tenor of this bill is anticompetitive and will have a chilling effect on efforts to encourage other nontraditional parties to provide telecommunication and Internet services. I do not believe this was the intent of the state's telecommunications deregulation act (1993 Act 496). There are those who may claim that allowing nontraditional providers (municipal utilities, commercial utilities, cable providers, schools, CESAs, etc.) to become

telecommunication utilities will actually inhibit competition. Yet it has been over five years since passage of Act 469 and still most areas of the state do not have local phone competition (see map below). Therefore, the Department of Public Instruction asks you not to support legislation that would further restrict potential providers of telecommunication services.

5) Finally, and perhaps most importantly, we live in a dynamic telecommunications and information technology environment. Within this context, it is very difficult to predict accurately what types of services will be needed by our schools and libraries in the coming years. Considering this, our schools and libraries must be allowed the widest latitude to select any basic or advanced telecommunication services they need from the widest number of possible service providers.

I again thank you for the opportunity to testify today on this important issue.

The map below is from the Public Service Commission's report *Status of Investments in Advanced Telecommunications Infrastructure in Wisconsin* (December 1999). The areas of the state where there is local phone competition are shaded. As can be seen, except for urban areas, most of the state has no competition. Several other observations in the PSC report are noted on the right. These observations are related to costs and competition, both issues relevant to AB 747.



- The costs of broadband video and other high-speed network connections remain prohibitively high for schools and libraries.
- Where significant subsidies are available (e.g., TEACH, E-rate), the use of advanced telecommunications by schools and libraries has flourished; where they are not available, it has languished.
- The number of CLECs offering service has only moderately increased, and CLECs usually serve large urban areas.
- Customer demand for some services, such as high-speed connections to the Internet, is not always being met by ILECs.

CITY OF REEDSBURG
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**TESTIMONY OF CARL STOLTE, MAYOR
OF THE CITY OF REEDSBURG, WISCONSIN**

on

SENATE BILL 385

**BEFORE THE SENATE COMMITTEE ON HEALTH, UTILITIES,
VETERANS & MILITARY AFFAIRS**

March 8, 2000

Mr. Chairperson and members of the Committee; my name is Carl Stolte. I am the Mayor of the City of Reedsburg, Wisconsin. I am here to testify against SB-385. As I understand it, this proposal would bar municipalities from providing telecommunications and Internet services. It would also prevent any existing municipal telecommunication or Internet service providers from continuing to provide services to the public or from transferring their facilities to another if those facilities are to be used to provide such services. This bill is bad for municipalities, local school districts and consumers.

I am very proud of the fact that the City of Reedsburg is not only a public power community, but just last month Reedsburg became one of the first Wisconsin municipalities to be certified by the Public Service Commission of Wisconsin to provide competitive telecommunications services.

The City of Reedsburg is investing in a telecommunications system for a number of very important reasons:

- To Support Current Utility Functions. The primary reason for Reedsburg to build a telecommunications system is to support a variety of current and future electric and water utility system and business applications. These applications include such things as monitoring and control of our electric substations, remote monitoring of electric demand meters, automated meter reading, and on-line customer billing.
- To Facilitate Data Transmission and Reduce the City's Telephone Expenses. Our municipal telecommunications system will be used to connect municipal buildings to take advantage of high-speed data services and to replace existing telephone services. Not only will this increase the efficiency of our city government, we also anticipate significant savings to our City in avoided telephone charges.

- To Assist Local School District. The Reedsburg Utility Commission began working with the local school district last year to provide for the installation and design of a telecommunications system that allows for the connection of a three-building network by the school district. It is vitally important that our schools have access on an affordable basis to the Information Superhighway, and the City is in a position to help provide that access.
- To Encourage Economic Development in Reedsburg. Regarding the provision of services to the public, the initial focus of our municipal telecommunications utility will be to provide high-speed data services to businesses. We believe this will foster economic development in our community. Such services currently are not offered on a competitive basis in Reedsburg.
- To Bring Affordable Advanced Telecommunications and Internet Service to Our Community. Long ago, Wisconsin communities formed municipal utilities to do for themselves what they viewed to be of vital importance to their quality of life and future economic prosperity. We believe that the City of Reedsburg and its municipal utilities can play a vital role in bringing affordable advanced telecommunications and Internet services to our community.

SB-385 will hurt municipalities, local school districts and ultimately consumers in the more rural areas of Wisconsin. As you may know, municipal electric utilities developed largely due to the failure of private utilities to provide electrical service in many rural areas.

Once again, our municipal electric utilities are well-positioned to bring the infrastructure of the future to our communities by helping to facilitate the development of competition in the telecommunications industry and by offering new services in the very areas that may not receive them otherwise. Preventing Reedsburg and other municipalities from providing telecommunication services within our own communities will inhibit competition in telecommunications and it will also unfairly limit the telecommunication services available to rural residents, and impede economic development and growth in numerous rural communities throughout Wisconsin.

Thank You.



The role of leadership in a digital age is to enable a broad spectrum of interested people to act. The hardest leadership principal for traditional leaders will be to learn to "get out of the way" and to give the developers of innovative applications a chance to show what is possible. This change will be particularly difficult when the installation of new applications threatens existing jobs or assets.

*Taken from: Local Government On-Line
By: John O'Looney, Ed.D., Ph.D.*



State of Wisconsin Department of Public Instruction

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John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

Testimony Before the Senate Committee on Health, Utilities, Veterans and Military Affairs March 8, 2000

RE: 1999 SENATE BILL 385

Robert Bocher, Library Technology Consultant
(608-266-2127, fax 608-266-2529; robert.bocher@dpi.state.wi.us)

Members of the Senate Committee on Health, Utilities, Veterans and Military Affairs, I am Bob Bocher, a library technology consultant in the Department of Public Instruction. I have been working in the area of library and information technology for almost twenty-five years.

The DPI has sent to Representatives Hutchison and Huebsch three letters in response to early Assembly drafts of this bill, including AB 747. My testimony today will be brief and will encompass the chief concerns the DPI outlined in the three letters. It closely parallels the testimony I gave at the February 24 Assembly hearing on AB 747.

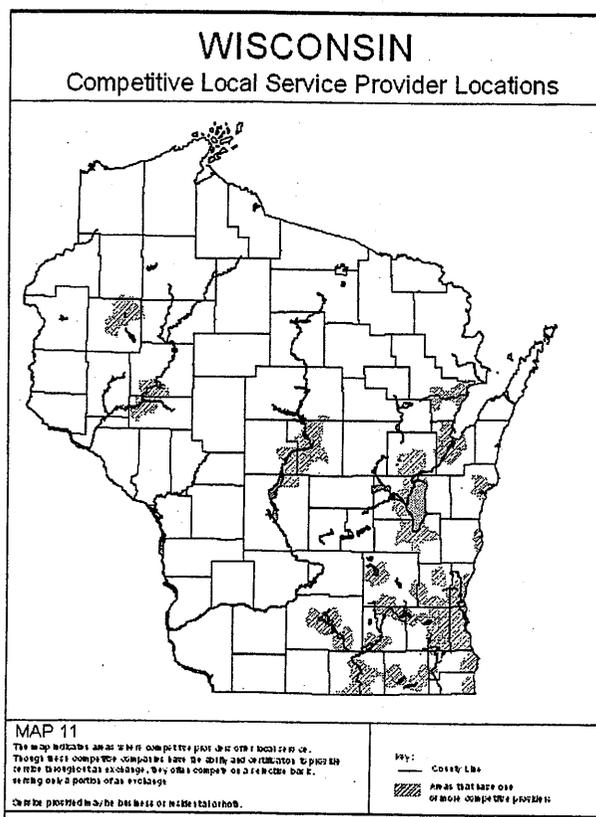
- 1) Revenue caps on school districts are making district budget decisions increasingly difficult. To make the most efficient use of taxpayer dollars, schools must be able to select telecommunication and Internet services from any sources, including local exchange carriers, municipal utilities, commercial utilities, cable franchises, wireless providers, CESAs and others. If this legislation is passed, I am certain that some districts will pay more for their telecommunications and Internet services. Thus, this bill should alarm any member of the public or any legislator who is concerned about the prudent use and expenditure of public funds.
- 2) Eighty-two percent of our state's 381 public libraries now provide Internet access for patrons. Line eleven of page four in the present bill could easily be interpreted as prohibiting such access. Our public libraries serve as access points to bridge the "Digital Divide" for that majority of citizens who do not have Internet access. It is imperative that our public libraries be able to offer Internet access to their patrons.
- 3) This bill is inconsistent and selective in what it defines as a "governmental subdivision." For example, in the area of higher education, the WTCS campuses are included but the UW system campuses are not. In the area of government, local and county governments are included but state government is not.
- 4) The overall tenor of this bill is anticompetitive and will have a chilling effect on efforts to encourage nontraditional parties to provide telecommunication and Internet services. I do not believe this was the intent of the state's telecommunications deregulation act (1993 Act 496).

There are those who may claim that allowing nontraditional providers (municipal utilities, commercial utilities, cable providers, schools, CESAs, etc.) to become telecommunication utilities will actually inhibit competition. Yet it has been over five years since passage of Act 469, and most areas of the state still do not have local phone competition (see map below).

5) Finally, and perhaps most importantly, we live in a dynamic telecommunications and information technology environment. This legislation is inconsistent with this reality. Within this context, it is very difficult to predict accurately what types of services will be needed by our schools and libraries in the coming years. Considering this, our schools and libraries must be allowed the widest latitude to select any basic or advanced telecommunication services they need from the greatest number of possible service providers. Therefore, the Department of Public Instruction asks you not to support legislation that would restrict potential providers of telecommunication services.

I again thank you for the opportunity to testify today on this important issue.

The map below is from the Public Service Commission's report *Status of Investments in Advanced Telecommunications Infrastructure in Wisconsin* (December 1999). The areas of the state where there is local phone competition are shaded. As can be seen, except for urban areas, most of the state has no competition. Several other observations in the PSC report are noted on the right. These observations are related to costs and competition, both issues relevant to SB 385.



- The costs of broadband video and other high-speed network connections remain prohibitively high for schools and libraries.
- Where significant subsidies are available (e.g., TEACH, E-rate), the use of advanced telecommunications by schools and libraries has flourished; where they are not available, it has languished.
- The number of CLECs offering service has only moderately increased, and CLECs usually serve large urban areas.
- Customer demand for some services, such as high-speed connections to the Internet, is not always being met by ILECs.



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

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DATE: March 8, 2000

TO: MEMBERS OF THE ASSEMBLY COMMITTEE ON INFORMATION POLICY

FROM: John Stolzenberg, Staff Scientist

SUBJECT: Assembly Substitute Amendment __ (LRBs0334/3) to 1999 Assembly Bill 747, Relating to Prohibiting Governmental Subdivisions From Providing Certain Telecommunications Services and Internet Access Services and for Making Certain Transfers of Telecommunications Transmission Facilities

This memorandum, prepared at the request of Representative David Hutchison, Chairperson of your committee, summarizes Assembly Substitute Amendment __ (LRBs0334/3) to 1999 Assembly Bill 747 (the "substitute amendment"). The substitute amendment relates to prohibiting governmental subdivisions from providing certain telecommunications services and Internet access services and from making certain transfers of telecommunications transmission facilities. The memorandum also identifies the major differences between Assembly Bill 747 and the substitute amendment.

As used in the substitute amendment, a "governmental subdivision" is a "political subdivision" (a city, village, town or county), an instrumentality or corporation of a political subdivision or a combination or subunit of any of the foregoing, but does not include a public library board or a public library system.

A. SUMMARY OF THE SUBSTITUTE AMENDMENT

I. Prohibited Governmental Subdivision Activities

The substitute amendment prohibits a governmental subdivision from engaging in any of the following activities:

- a. Providing a telecommunications service in Wisconsin to a member of the public.

- b. Transferring a transmission facility in Wisconsin to another person if the facility is used to furnish a telecommunications service directly or indirectly to a member of the public.
- c. Selling an Internet access service directly or indirectly to a member of the public.

Since these prohibitions are placed in ch. 196, Stats., the telecommunications-related terms defined in s. 196.01 apply to these prohibitions. In particular, "telecommunications service" has the following meaning:

"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, 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. "Telecommunications service" does not include cable television service or broadcast service. [s. 196.01 (9m), Stats.]

The substitute amendment defines the phrase "member of the public," which is used in all three prohibitions, to mean any person except a governmental subdivision.

For the second prohibition, the substitute amendment defines "transfer" and "transmission facility." "Transfer" is defined to mean to sell, lease or transfer for consideration of any interest in ownership, title or right to use. An example of a transfer of a transmission facility is the leasing of a "dark fiber," that is, the leasing of a fiber optic cable itself without any associated service to convey information over the cable. The substitute amendment defines "transmission facility" as follows:

"Transmission facility" means any plant or equipment used to transmit a telecommunications service by wire, optics, radio signal or other means. "Transmission facility" does not include any conduit, pole, tower or other structure that supports the plant or equipment used to transmit the telecommunications service.

For the third prohibition, the substitute amendment defines "Internet access service" to mean a service that enables a user to obtain access to content, information, electronic mail or any other service offered over the Internet.

2. Exceptions to Prohibited Activities

a. Exception for Intergovernmental Sharing of Services and Facilities

The substitute amendment creates an exception to the prohibitions on a governmental subdivision providing a telecommunications service, transferring a transmission facility or selling an Internet access service if the governmental subdivision provides the telecommunications service, transfers the transmission facility or sells the Internet access service to a local governmental unit, state agency, federally recognized Indian tribe or band located in Wisconsin or

volunteer fire company or fire department organized under ch. 213, Stats., under a contract or agreement under ch. 43, Stats. (library laws), or s. 66.30, Stats., or a similar contract or agreement for the sharing of services or facilities.

For purposes of this exception, the substitute amendment creates a definition of "local governmental unit" that is a broad definition that includes all local governmental entities, their subunits and combinations of them, as well as combinations of local governmental entities with state agencies. The amendment also defines "state agency" as follows:

"State agency" means any office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, including the legislature and courts.

b. Exceptions for Transferring Transmission Facilities

The substitute amendment creates two exceptions to the prohibition on transferring a transmission facility:

(1) A governmental subdivision may sell substantially all of the transmission facilities that it owns to a telecommunications utility, alternative telecommunications utility (ATU) or telecommunications carrier.*

(2) A governmental subdivision may lease a transmission facility under a contract signed before the substitute amendment's effective date.

3. Prohibitions on PSC Authorizations

The substitute amendment prohibits the Public Service Commission (PSC) from issuing the appropriate authorization to a governmental subdivision to become any of three types of telecommunications providers, a telecommunications utility, ATU or telecommunications carrier.* These authorizations are a "determination" to become an ATU, a "certificate" to become a telecommunications carrier and a "certificate of authority" to become a telecommunications utility.

4. Effective Date and Initial Applicability

Since the substitute amendment does not contain an effective date provision, following enactment it takes effect on the day after the date of its publication pursuant to s. 991.11, Stats. The substitute amendment specifies that the three prohibitions described above first apply to

*These telecommunications providers include incumbent, local exchange telecommunications companies ("telecommunications utilities"), facilities-based long-distance telecommunications companies ("telecommunications carriers") and any of four types of ATUs (cable television telecommunications service providers, pay telephone service providers, telecommunications resellers and other telecommunications providers identified by the Public Service Commission (PSC), including competitive local exchange carriers). [See s. 196.01 (1d), (1r), (4m), (8m), (9) and (10), Stats.]

services provided or facilities transferred under contracts entered into, extended, modified or renewed on the effective date of the substitute amendment.

B. MAJOR DIFFERENCES BETWEEN ASSEMBLY BILL 747 AND THE SUBSTITUTE AMENDMENT

The major differences between Assembly Bill 747 and the substitute amendment are summarized in the table that follows.

Major Differences Between 1999 Assembly Bill 747 and Assembly Substitute Amendment __ (LRBs0334/3) to 1999 Assembly Bill 747

<i>Subject</i>	<i>Assembly Bill 747</i>	<i>LRBs0334/3</i>
Applicability – “governmental subdivisions” subject to prohibitions on specified activities and on PSC authorizations	City, village, town, county, school district, cooperative educational service agency (CESA) or technical college district.	City, village, town, county, instrumentality or corporation of any of these entities or a combination or subunit of any of these entities, excluding a public library board or a public library system.
Applicability – definition of “public”	Uses the ch. 196 definition of “public,” based on case law.	Defines “member of the public” to mean any person except a governmental subdivision.
Prohibition on providing a telecommunications service	Prohibition applies to providing a telecommunications service in Wisconsin as a telecommunications utility or carrier or ATU.	Prohibition applies to providing a telecommunications service in Wisconsin to a member of the public.
Prohibition on transferring a transmission facility – definition of “transmission facility”	Uses s. 196.01 (12), Stats., definition. (“Transmission facility” means any plant or equipment used to carry telecommunications services by wire, optics, radio signal or other means.)	Creates a definition. (“Transmission facility” means any plant or equipment used to transmit a telecommunications service by wire, optics, radio signal or other means. “Transmission facility” does not include any conduit, pole, tower or other structure that supports the plant or equipment used to transmit the telecommunications service.)

Subject	Assembly Bill 747	LRBs0334/3
Prohibition on providing an Internet access service	Prohibition applies to <i>providing</i> an Internet access service directly or indirectly to the public.	Prohibition applies to <i>selling</i> an Internet access service directly or indirectly to a member of the public.
Exception for intergovernmental sharing	No provision.	Allows a governmental subdivision to provide a telecommunications service, transfer a transmission facility or sell an Internet access service to a local governmental unit, state agency, Indian tribe or band, or volunteer fire company or department under a s. 66.30 or similar agreement.
Exceptions for transferring transmission facilities	No provision.	Allows a governmental subdivision to: <ul style="list-style-type: none">• Sell substantially all of its transmission facilities to a telecommunications utility, ATU or telecommunications carrier.• Lease a transmission facility under a contract signed before the bill's effective date.

If you would like additional information on LRBs0334/3, please feel free to contact me at the Legislative Council Staff offices.

JES:wu:ksm;tl;wu

Testimony of Pete Mann
Representing the City of Oconto Falls, Wisconsin
in Opposition to SB 385
March 8, 2000

Senator, committee members, thank you for the opportunity to come before you to share my concerns with SB 385. My name is Pete Mann. I serve the citizens of the city of Oconto Falls as its city administrator. I am present today with the mayor of my community, Mr. Norm Kratz, Council president Lee Crozier, and alderman Penny Nicholas to oppose SB 385.

Let me repeat. My community is opposed to SB 385. It is bad policy. It needs to die in committee.

Oconto Falls is a community of 2,700. We are not the state's largest city nor are we the state's smallest community. Oconto Falls is a unique community in this state, however. For we are the only municipality that operates its own cable television system.

According to the 1999-2000 Wisconsin Bluebook, Wisconsin contains 189 cities, 395 villages, 72 counties, and lord knows how many townships. Yet one municipality operates a cable television utility. That says a lot. Municipalities are not interested in providing private sector services unless a need is not being met by the private sector.

Today, to my knowledge, three municipalities have filed CLEC applications in response to local needs, and the communications industry, an industry that embraced the idea of competition in 1993 with the push to move Act 496 through the legislature, an industry that desired to be free of the reigns of the regulators in offices on Whitney Way, an industry that embraced the market place to replace regulation, doesn't want the competition it once sought.

In 1982, the citizens of Oconto Falls choose to have their municipality fill a need that was not being met by the private sector. Over the past 18 years, the municipal cable utility has provided this broadband information, entertainment, and educational service to its citizens without ever having received a subsidy for its construction or operation. For the past 18 years Oconto Falls CATV provides a responsive and growing service that changes as the wants and desires of its residents change. Oconto Falls CATV is government at its best. Filling a local need in accordance with the wishes of its constituents.

I have heard a lot of hand wringing over the last several weeks in testimony as well as literature by the opposing view, on how SB 385 and AB 747 is needed to prevent municipalities from stifling competition in the telecommunications industry, how municipalities will discriminate in the service it provides, how municipalities in the communications business is the fear of Big Brother incarnate. The sad part of such testimony is that none of it is true.

Let me repeat what I said before. Municipalities do not compete with private sector business unless a very real need exists.

Perhaps the industry should be asking itself what is wrong with the service being offered by the incumbent providers in Sun Prairie, Reedsburg and Shawano that those communities are looking to become CLEC's instead of spending its efforts and energies to change the legislation that permitted competition.

SB 385/AB 747 kills my community's cable system. Cable services and the technology utilized to provide this service is changing rapidly. Fiber is being chosen as the transportation medium of choice for the evolving services being offered by traditional cable operators. This bill prevents my community's cable operations from constructing the facilities necessary to provide the services expected by its subscribers. It harms my community's ability to offer the capacity to provide additional cable services available to today and tomorrow's services that we can only dream of. In my reading of the bill it will prohibit a municipal cable operator from offering services such as interactive television, pay for view, etc.. This bill kills my cable system because you have taken away its ability to upgrade the system, provide the services that are traditionally cable television services and compete on the level playing field coveted so much by the private industry that is before you today.

And to add insult to injury, my community is prevented from selling its assets once the system no longer services the public. The City of Oconto Falls currently operates fiber optic cables to overcome interference with video signals in parts of the community. Should the citizens of my community choose to sell the system to a private operator to recover its investment and receive the programming services it expects and the municipality is prohibited from providing, this bill says it can't. I guess we have come full circle - "Taking's" in reverse. A municipality cannot take property without just compensation but now my legislature is suggesting in this bill that the reverse is acceptable. Taxpayers shouldn't have take a loss without just compensation because they own fiber plant!

This bill harms employment in communities such as Oconto Falls. Railroads were the economic lifeline of the 19th century, interstate highways were the medium to prosperity of the 20st century, and information pathways are showing to be just as important a route to continued prosperity of Wisconsin's cities and villages in the 21st century. What recourse does this legislation provide a community when an incumbent service provider that does not desire, is not able, or will not place a high priority on wiring the rural areas of the state. The answer is simple - NONE.

This bill doesn't do anything beneficial for my community, but what does this bill do for communities such as Wausaukee, Wisconsin. Wausaukee, is not a desolate settlement in the backwoods corner of a rural Wisconsin county. Wausaukee, population 656, is on a main transportation corridor in northeast Wisconsin and home for the district office of Centrytel. The residents of Wausaukee once had access to broadband services. Wausaukee lost those services when its operator pulled out. The operator did not sell its facilities to another provider, it salvaged them. The community has not been able to attract a new provider since. What does this bill do for the citizens of Wausaukee? The answer is simple - NOTHING.

The citizens of the Village of Suring, Wisconsin, population 626, now enjoy the luxury of broadband services in their community. The operator has threatened to terminate its services in

accordance with its franchise agreement. How does this bill help that community? The answer is simple - NOTHING.

Contrary to the statements made by the industry that without this bill, a community's entry into the telecommunications field will be a boondoggle for local taxpayers, just the reverse is true. Allowing competition for this essential service permits governments to be good stewards of the monies entrusted to them.

A case in point. The Oconto Falls School District, along with several other northeast Wisconsin K-12 systems, developed the Triton Distance Learning Network in the mid 1990's. The collaboration of school districts had trouble coming to terms with the incumbent telecommunications provider in providing a pathway of desired service levels to carry the network at prices that were affordable. The members of the network approached cable providers, an electric utility, municipalities, and independent phone companies to provide an alternative path. The collaboration of providers poised to provide the alternative path did not string a foot of cable, did not turn a spade of sod, did not hang a wire on a pole, but its influence was dramatic. Just the threat of competition encouraged Ameritec, the incumbent provider of telecommunications services, to come to terms with the school districts on service and pricing levels. Without the ability to compete with the incumbent, and the authority of the municipality to be part of the competition, the success achieved by Triton would not have happened. And the local taxpayers would have paid the bill for that disadvantage.

In testimony before the Senate's counterpart committee in the Assembly, I heard numerous ISP's testifying that this legislation was necessary to protect their interests. Yet only one ISP presenting testimony indicated they served rural Wisconsin. I am assuming the testimony from ISP's today will be similar. How many ISP's have their own hardwired networks - a pathway they own and control. Not many by my estimation. I would guess that the vast majority are similar to the ISP in my community whose access to his customers is over the pathway controlled by others.

My community is not interested in becoming an ISP provider or a telecommunications utility. But it will apply to become one to protect its ability to provide services expected by its residents. My community is interested, however, in providing the pathway that competing providers use to serve their customers and our residents. That is an age old concept. City's provide streets and highways for the common good, for travel, for the exchange of information, for the transport of goods and services, a medium of commerce for everyone, residents and non residents alike, without discrimination of users. My community's use of fiber optic facilities is not any different. It is intended to provide a high speed highway for those that require that highway for the success of their enterprises. It is intended as a medium to grow jobs. It is intended as a means for the City of Oconto Falls to compete with other communities in the aggressive cutthroat arena of economic development, whether those services are provided by public or private entities, and other states as another tool to attract business and industry. It is intended as a means of retaining jobs in the City of Oconto Falls and creating new ones.

As I noted, Oconto Falls is blessed with an ISP provider. A provider that supports local jobs. It

is a provider that has struggled immeasurably with the local incumbent telecommunications provider in obtaining the access lines necessary to maintain a successful and growing business. It has struggled with capacity issues of the incumbent provider, service response issues of the incumbent provider, and the inability of the incumbent provider to furnish entrance ramps to the information superhighway at its customer's doorsteps. How does this bill help an entrepreneur such as this survive when an incumbent provider is unwilling or unable to provide the pathway his business needs to be successful. It doesn't. What is wrong with my community, any community, in providing a competitive pathway for businesses to survive, to compete, to grow in a very aggressive and unforgiving global market place.

This bill is about jobs. This bill takes away a community's ability to compete in the aggressive economic development market place. SB 385 is bad legislation and needs to be killed.

Thank you.



CITY OF
OCONTO FALLS
WISCONSIN, BOX 70, 54154
Tel. (920) 846-4505
Fax. (920) 846-4510

RESOLUTION 00-002

RESOLUTION OF THE CITY OF OCONTO FALLS OPPOSING
ASSEMBLY BILL 747 & SENATE BILL 385

WHEREAS; Assembly Bill 747 and Senate Bill 385 prohibit local governments from providing telecommunications service and Internet access service to the public; and

WHEREAS; the bills would dismantle a key component of 1993 Wisconsin Act 496, The information Superhighway Act; and

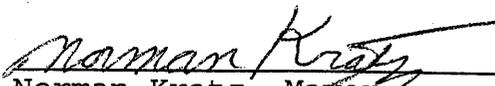
WHEREAS; 1993 Wisconsin Act 496 specifically authorized municipalities to provide these services in an effort to encourage competition and to avoid the anti-competitive abuses of the market in a deregulated environment; and

WHEREAS; it is important that local government retain the ability to provide telecommunications services in the event that private providers are unwilling to serve the needs of local constituents;

NOW THEREFORE, BE IT RESOLVED that the City of Oconto Falls, Wisconsin opposes Assembly Bill 747 and Senate Bill 385, prohibiting governments from providing telecommunications service and Internet service access to the public.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to local legislators, the Municipal Electric Utilities of Wisconsin, and the League of Wisconsin Municipalities.

Adopted by the unanimous action of the Common Council for the City of Oconto Falls, Wisconsin in Special Session Wednesday, March 1, 2000.


Norman Kratz, Mayor

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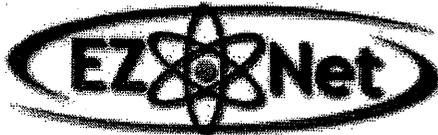
Oconto Falls



Visit...



A Division of EZ-Net



Oconto County's Internet Source

EZ-Net Learning Center

EZ-Net would like to announce the opening of our new learning center! We have classes forming already and look forward to giving a helping hand to those of you that would like to learn more! Please see [this page](#) for more information and to sign up.

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EZ-Net is proud to offer our customers **BESS** filtered Internet access.

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Community Events

Information has been posted for the following community events:

- [Take Charge of Your Heart](#)

Oconto Falls Update 2/21/00

CenturyTel has admitted to having a severe "congestion" problem within parts of their Oconto Falls switch, which was causing "fast busy" signals on our 846-4700 number. We have a temporary solution in place (since 2/11/00) that has virtually eliminated the problem for the time being. We will continue to work with CenturyTel in addressing the issue.

EZ-Net Has Expanded!!!

We've recently added 9 new exchanges to our local coverage area:

- **Marinette (732 & 735)**
- **Menominee (863 & 864)**
- **Peshigo (582)**
- **Harmony (789)**
- **Crivitz (854)**
- **Wausaukee (856)**
- **Twin Bridges (757)**

Tell your friends & relatives interested in getting online with us in these areas to call us at (920) 846-8008 or email sales@ez-net.com for more information.

Employment Opportunities

EZ-Net is now accepting resumes for several positions. If you would like the opportunity to join our staff, [click here](#) for more information.

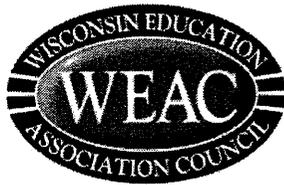
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**WEAC and WFT Joint Statement in Opposition to Senate Bill 385,
Relating to Prohibiting School Districts, Technical College Districts, CESAs and
Others from Providing Certain Telecommunication and Internet Services**

Tricia Yates, WEAC Legislative Consultant

March 8, 2000

Thank you, Chairperson Moen and members of the Senate Health, Utilities, Veterans and Military Affairs Committee for the opportunity to speak today. I am Tricia Yates, Legislative Consultant for the Wisconsin Education Association Council, testifying on behalf of WEAC and the Wisconsin Federation of Teachers in opposition to SB 385.

WEAC's Representative Assembly has voted to support the legislative objective of continuous expansion and implementation of educational technology and telecommunications initiatives, including staff development. Mr. Chairperson and members, this bill does just the opposite.

We have three primary reasons for our opposition:

- 1) SB 385 would - through its definition of telecommunications utility - prohibit the Wisconsin Technical College System, whose employees comprise a large part of our membership, from offering educational telecommunications services (e.g., selling courses) between districts and to K-12 and private corporations as is part of their mission;

2) SB 385 regulates the Internet for the first time, saying that school districts, CESAs and others could not provide Internet services directly or indirectly to the public. We believe this would prohibit educational entities from offering Internet to teachers, parents and students at home; and

3) SB 385 restricts the options schools have to purchase telecommunications and Internet services. School districts work diligently to provide education services to children while spending their resources in the wisest manner. Under revenue caps, it is particularly critical that schools are not limited in their flexibility to choose the best option for investment, in this case in telecommunications services.

It is particularly important to ensure that this can happen in all areas of the state. The Legislature should ensure that rural, urban and suburban educational entities all have the greatest access to and options in choosing their telecommunications providers.

Mr. Chairperson and members, there is a significant reason that Wisconsin's education community unites here today to oppose this bill – as written it harms our ability to provide services to children, educators, families and the greater community. WEAC and WFT urge your defeat of Senate Bill 385. Thank you.

SCHOOL DISTRICT OF REEDSBURG

REEDSBURG, WI 53959
Administration Office - 710 North Webb Avenue

Patrick J. McGee
Assistant District Administrator

Curriculum & Instruction
(608) 524-2174

March 7, 2000

Senate Committee on Health, Utility,
Veteran & Military Affairs

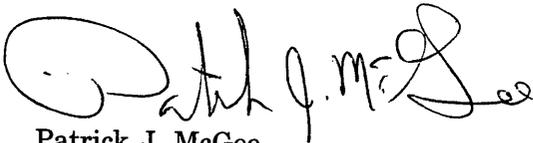
Dear Members of the Senate Committee on Health, Utility, Veteran & Military Affairs:

The School District of Reedsburg on behalf of the children we serve, is extremely concerned with SB385 (AB747) and the potential significant negative impact it will have on our ability to secure the quality and affordable level of service presently provided in conjunction with Reedsburg Utility.

Reedsburg Utility, being community based has assisted and supported the School District of Reedsburg in developing, through a collaborative working relationship, a level of service we not only would not have had access to, but no doubt would not have been able to afford.

It is hoped that the framers of SB385 (AB747) and those involved in its review will seriously consider the short and long range crippling effect passage of such a bill will have on organizations such as ours.

Sincerely,

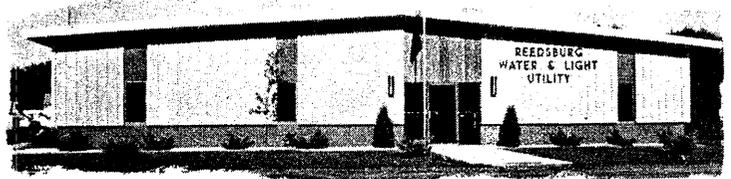


Patrick J. McGee
Assistant District Administrator
School District of Reedsburg

cc: Jim Waller, District Administrator
School Board of the School District of Reedsburg

krr

**ELECTRIC
and
WATER**



REEDSBURG UTILITY COMMISSION

344 SO. WILLOW • P.O. BOX 230 • REEDSBURG, WISCONSIN 53959 • TEL. (608) 524-4381 • FAX (608) 524-2423

To: Members of the Senate Committee on Health, Utilities, Veterans and Military Affairs

Testimony of David Mikonowicz,
Utility Manager for the Reedsburg Utility Commission

I strongly oppose Senate Bill #385 for the following reasons:

1. The bill would prevent the Reedsburg Utility Commission from providing the services our customers are asking for, services which are not available to them now, or are priced such that they cannot make use of the service.
2. The bill would prevent the Reedsburg Utility Commission from offering the highest standard of technology to all of our citizens. Reedsburg is not a large population center and advanced technology will not be rolled out in this area unless Reedsburg Utility Commission is allowed to do so. The Reedsburg Utility Commission has constructed a fiber optic network to serve our needs and the needs of our customers with high-speed data, voice and video.
3. The bill even goes so far as to prevent Reedsburg Utility Commission from selling or leasing its plant to other providers who could offer competing services through our lines. This would prevent any possible public/private partnerships and the competitive advantages they would bring to Reedsburg. Reedsburg Utility Commission is presently negotiating with three private telecoms to provide various services, which are necessary to provide service to our citizens.

Myths that you will be presented with that need to be explained.

1. That Reedsburg Utility Commission can low ball rates due to being tax exempt.

Fact: Reedsburg Utility Commission pays into the City of Reedsburg's general fund in excess of \$300,000.00 per year. This is a payment in lieu of tax based on our plant in service.

2. Reedsburg Utility Commission will have unfair access to the R.O.W. and poles in the City.

Fact: State and Federal Law regulate what and how the City gives access to the R.O.W. Reedsburg Utility Commission must also charge the same pole rental rate to its fiber system as it does other teleco's and cable systems.

3. The City will support Reedsburg Utility Commission fiber system with tax dollars.

Fact: Reedsburg Utility Commission generates all of its revenues from rates paid by its customers.

4. Reedsburg Utility Commission lacks the technology to support and operate a CLEC system.

Fact: Reedsburg Utility Commission has and will use consultants who specialize in the operation and layout of telecom systems. Reedsburg Utility Commission will be installing state of the art equipment, which will use cutting edge technology in its fiber system.

5. Reedsburg Utility Commission does not have the right to offer telecom services to its customers.

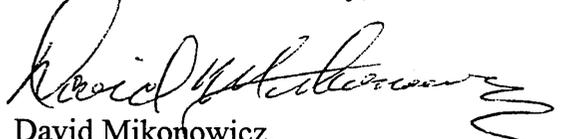
Fact: Act #496 specifically gives municipalities the right to enter the telecom business and to compete and bring much needed services to the municipality.

6. Allowing Reedsburg Utility Commission to enter the telecom business will prevent competition.

Fact: Most municipalities will be looking to enter into public/private partnerships to provide these telecom services there by encouraging competition on a wholesale level.

In closing, I would like to thank the committee for allowing me to share my thoughts on this important issue. I would also encourage the committee to review this issue as part of a comprehensive review of Act #496, there by allowing all parts of the telecom reconstruction bill to be reviewed and updated.

Respectively submitted by,


David Mikonowicz,
Manager of Reedsburg Utility Commission

TESTIMONY OF FORBES McINTOSH

BROYDRICK AND ASSOCIATES

**PRESENTED TO THE HEALTH, UTILITIES, VETERANS AND MILITARY
AFFAIRS COMMITTEE**

MARCH 8, 2000

Mr. Chairman and fellow committee members, thank you for allowing me to appear before you.

My name is Forbes McIntosh of Broydrick and Associates, representing the Milwaukee Area Technical College, which operates Milwaukee Public Television Channels 10 and 36.

I am appearing on behalf of Dr. John Birkholz, President of MATC , and would like to comment on MATC's community tower and the services MATC currently provides. Dr. Birkholz wants to ensure that any legislation concerning telecommunications that this committee may approve does not impede MATC's ability to serve our 62,000 students and the viewers of Channels 10 and 36.

MATC presently owns and operates a community digital transmission tower. This tower provides several benefits to the residents of southeastern Wisconsin. First, it will allow Channels 10 & 36, which serve 46% of the state's public television viewership in 14 separate counties, as well as our new digital Channels 8 and 35 to meet the federally mandated digitalization regulations. Second, it enables Milwaukee Public Television to provide high definition television to these viewers through higher quality resolution. Third, the transition to digital television, which the tower makes possible, will provide Milwaukee Public Television with the ability to transmit ancillary data independent of programming content as well as complementing it, greatly expanding the educational capabilities of Milwaukee Public Television. Fourth, the tower will afford MATC's students new and enhanced learning opportunities. It will aid students in MATC's highly regarded television-broadcasting program by allowing them to train on cutting edge technologies.

Fifth, it will tremendously enhance distance learning capabilities that we presently do not have. Distance learning, demanded by industry and students, is the fastest growing area of post-secondary education. MATC's ownership of the tower allows us to respond to meet these real community needs.

MATC built the community tower in close cooperation with the City of Milwaukee. The community tower conforms to both federal digital guidelines and the City's Tower policy. In fact, the community tower was built by MATC to conform to and facilitate that public policy.

MATC's ownership and operation of its digital tower is good for it's students, the City of Milwaukee, private industry and the public television viewing audience throughout Wisconsin. We urge that any legislation this committee adopts to recognize the importance of allowing MATC to continue to own and operate a community tower.



WISCONSIN EDUCATIONAL MEDIA ASSOCIATION

Senate Committee on Health, Utilities, Veterans and Military Affairs
Hearing on SB 385
March 8, 2000

Statement by:
Sherry Freiberg

President, Wisconsin Educational Media Association (WEMA) and
Supervisor for Instructional Technology and Information Management, Fond du Lac School District

Thank you Senator Moen and Committee members for the opportunity to provide testimony regarding SB 385. The Wisconsin Educational Media Association, which represents over 1200 library media specialists and educators statewide, and the Fond du Lac School District have serious concerns about the prohibitions this legislation would place on school districts.

Many districts have built, or are in the process of building, fiber optic networks to provide fast, reliable and cost effective data services to our students and staff. The provisions of SB 385 raise questions for us about our ability to share the costs of building our network with public or private sector organizations in our city, as well as our ability to offer Internet services to parents, students and staff.

It is our understanding that this legislation would prohibit school districts from providing Internet access service either directly or indirectly to the public. SB 385 defines "Internet access service" as "service that enables a user to obtain access to content, information, electronic mail or any other service offered over the Internet." This is extremely restrictive and would severely limit our ability to communicate with our parents, staff and students. Although I am not aware of any school districts intending to sell Internet services, schools are trying to provide better communication for parents via the web and only see that type of communication expanding as we offer them greater access to information in a web-based environment. SB 385 would severely limit such communication.

Schools, CESAs and libraries need to be able to communicate in the most cost and time-effective manner. WEMA and the Fond du Lac School District hope you will seriously consider the negative consequences of SB 385, in its current form, would have for Wisconsin schools. Thank you for your consideration of our concerns.

**SB 385 – PROHIBITING GOVERNMENT SUBDIVISIONS
FROM SELLING INTERNET & TELECOMMUNICATIONS
SERVICES TO THE PUBLIC**
WISCONSIN STATE TELECOMMUNICATIONS ASSOCIATION
Presentation to the
**SENATE COMMITTEE ON HEALTH, UTILITIES, VETERANS
AND MILITARY AFFAIRS**
March 8, 2000

Introduction

- Ray J. Riordan, Executive Vice President of the Wisconsin State Telecommunications Association (WSTA)
- WSTA is comprised of 83 traditional Wisconsin telephone companies, 62 Wisconsin Internet service providers, and 8 Wisconsin wireless telecommunications companies.

Providing Competitive Service is an Improper Role for Government

- Thomas Jefferson comparing the provision of goods by government as compared to private enterprise stated, "Private enterprise...manages so much better all the concerns to which it is equal."
- Shift from government-owned telecommunications
 - Nations are privatizing their telecommunications
 - Experience has shown government-owned telecommunications is slow to innovate; political considerations adversely affect provision of service; competitors either do not enter or are slow to enter; and taxpayers subsidize, directly and indirectly, the competitive service.

Services Municipalities Intend to Provide

- Sun Prairie, Reedsburg, and Shawano
 - Petitioned PSC to be certified as telecommunications utilities
 - Service area – Any area in Wisconsin served by Ameritech, GTE, Mid-Plains, or Frontier
 - Services they intend to offer (ATTACHMENT 1)
 - Internet
 - Local telephone service
 - Long distance service
 - Security monitoring
 - Video service
 - Data service
 - Wireless service
- Winnebago County – Initially it said it wanted to connect 38 public buildings in the county and consolidate computer-aided dispatch of all police, fire and other emergency services in Outagamie, Winnebago and Calumet counties. SB 385 does not prevent this. (ATTACHMENT 2)

Competition

- Local telephone service
 - Competition is growing very fast – At the end of 1997 there were 34 competitive local telephone companies certified by the PSC. They were primarily looking at the Milwaukee and Madison areas. A little over 2 years later there are 67, many looking towards small cities and villages.
 - Small cities and villages which have or will have by the end of this year a competitive local telephone provider are Barron (3,085), Rice Lake (8,331), Darien (1,158), Middleton (13,626), Oconto (4,635), Oconto Falls (2,633), Dodgeville (4,027), Richland Center (5,027), Park Falls (3,704), Ashland (8,676), Washburn (2,277), Superior (27,393), Hurley (1,810), Hayward (1,951), Bayfield (671), and Menomonie (13,725). There are several more, but the companies would not share their future plans with me. A couple commented that they did not want to give the city any more warning than necessary that this was coming to town.
- Internet providers
 - I do not know of a community that does not have at least one Internet provider. Most have multiple providers
 - Businesses and residents of the cities seeking certifications have several choices of Internet providers.
 - Sun Prairie has over 25 Internet providers
 - Reedsburg has at least 7 Internet providers.
 - Shawano has at least 4 Internet providers.
 - Provision of Internet is a new, highly competitive service. Price competition has been cutthroat. The risk of failure is high.
 - Long Distance Service – Every customer in Wisconsin has a choice of several long distance companies.

Municipal Advantages

Financial

- Does not pay Federal Income tax
- Does not pay Wisconsin Income tax
- Does not pay Wisconsin Sales tax
- Low interest on municipal bonds
 - Interest is exempt from federal income taxes
 - City and its utility's credit is behind the bonds

Legal

- **Control over street rights-of-ways** allows municipalities to require a competing telecommunications provider give their plans for expansion to its municipal competitor. The municipality can charge high fees to the competitor or delay the issuance of necessary right-of-way permits. About the time municipalities became interested in providing telecommunications service they began to demand the following:
 - Municipalities advocate that competitive telcos and other utilities pay much higher fees that are not based on actual costs.
 - Municipalities want to require competing telephone and other utilities to use corridors specified by the municipality.
 - Municipalities want competitive telcos and other utilities to submit plans for future projects long in advance of implementation.
 - Municipalities want to holdup the issuance of permits for use of rights-of-way until all prior disputes have been resolved.

- **Zoning**
 - Municipalities have the power to deny conditional use permits for construction of necessary structures for a competitor.
 - Municipalities can limit the placement of necessary facilities in areas.

- **Plat approval** – Municipalities can require developers to install telecommunications facilities in a subdivision for use by the municipality.

- **1996 Federal Telecommunications Act** – Traditional telephone companies have many other disadvantages as compared to municipal telephone companies. Two of those disadvantages are:
 - Traditional telephone companies must provide network elements (i.e. a line into a subdivision) to the municipal telephone company, but the municipal telephone company, which may have required a developer to install the lines into a subdivision, does not have to reciprocate.

 - Traditional telephone companies must allow the municipal telephone company to locate its facilities in the traditional telephone company office, but the municipal (telephone company) is not required to reciprocate.

Intimidation Factor – Municipalities have the power to grant favors, provide services, and help businesses within its boundaries. Many business people do things to avoid any possible conflict with influential municipal representatives.

- A business seeking TIF financing may well contract with the municipal telephone company for service just to cater to the municipality.
- A business seeking a zoning variance may use the municipal telephone and Internet service to please municipal officials.
- An electrical contract may promote municipal telephone and Internet service hoping the building inspector will not over-scrutinize his work.
- Many citizens would rather play it safe and avoid upsetting municipal officials. Municipalities provide many other favors and services.
 - Prompt snow removal;
 - Rerouting roads to businesses;
 - Maintenance of roads to businesses;
 - Building inspections;
 - Purchasing of goods from businesses; etc.

Municipalities regulation of utilities – Cities have claimed they want to provide telecommunications and Internet service because adequate service is not being provided to their citizens – (ATTACHMENT 3)

- There is Internet service to every city and village in Wisconsin; most have multiple providers.
- Municipalities have the power to require the local telephone company to provide “the quality and character of each kind of product or service to be furnished.”
- Municipalities may require the local telephone company to provide “any addition or extension to its physical plant and designate its location and nature and time for completion.
- The municipality may provide a penalty for the telephone company’s failure to abide.
- If the municipality’s requirements are unreasonable, the telephone company may complain to the PSC.

Harm to Rural Customers – (ATTACHMENT 4)

- Cities and villages usually have customer density of 100 to 300 per square mile. In rural areas density generally ranges from 3 to 20 customers per square mile. The cost to provide telephone service in cities and villages may be \$20 to \$50 per month. In rural areas it is often 10 or more times higher than that. Businesses, generally located in cities and villages, provide more revenue to pay for higher technology than do residential and rural customers.
- It has been the social policy for decades that rural customers pay the same, or approximately the same, for telephone service as city and village customers.
- Municipalities with all of their advantages will drive rates higher for rural customers by removing access to capital and customer base, which are necessary for telephone companies to provide advance services and maintenance of quality service for rural customers.

Changing Technology

- Changing technology – DSL, Fiber, Electronics
- Shift from wireline to wireless – filed wireless, cricket, LMDS, MMDS

Schools, municipalities, and other government subdivisions are not prohibited building, operating, or controlling their own telephone and Internet systems or sharing them with other government subdivisions under the proposed legislation.

Privacy concerns - Records held by Government subdivisions are subject to Wisconsin's Open Records Law.

- §19.35(1)(a) Except as otherwise provided by law, **any requester has a right to inspect any record.** §19.32(2) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved...which has been created or is being kept by an authority. §19.31(1) "Authority" means any of the following having custody of a record: as state or local office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; a governmental or quasi-governmental corporation...
- Also see Woznicki v. Erickson (1996) 549 NW2d 699
- Telephone records including bills, numbers called, length of call, costs, etc., and may be sought by anyone.
- Internet records include emails, web sites visited, etc., and may be sought by anyone.

SUN PRAIRIE NEWS

Wednesday, February 16, 2000

P&L to offer Internet, phone service

By Brooke Miller
Sun Prairie News

The Sun Prairie Power & Light Commission made telecommunications history last week as it became one of the first two utilities in the state to be granted competitive local exchange carrier status.

Along with the Reedsburg Utility Commission, Sun Prairie Power & Light will be offering new services in the next few months, such as high-speed Internet access, local and long

distance phone service, and video security monitoring. The new status puts the local utility in direct competition with companies such as Ameritech, GTE, MCI-Worldcom and Sprint.

"Ideally, we'd like to offer services that don't currently exist in our local market, like high-speed Internet access and e-mail, or at least offer comparable services at a more competitive price," Sun Prairie Water & Light Commission Superintendent Larry Boccock said.

The latest fiber-optic technology allows data, voice and video traffic to be carried on one network, giving the utility company the flexibility to provide a whole host of services. "We think offering customers more choices is a way to protect our community's quality of life and promote economic growth," Boccock said.

The new technology has the potential to offer pay-per-view programming, satellite and cable television, video con-

Please see STATUS, Page 3

Status

Continued from Page 1

ferencing and telemedicine, which provides live online clinical consultation and diagnosis.

To provide such services, the company has laid out a data network using fiber-optic cable to create a Metropolitan Area Network (MAN).

MANs are designed for a town or city and create high-speed connections by using fiber-optic cable instead of copper wire.

Fiber optics uses glass or plastic

threads to transmit data at the speed of light. Fiber-optic cable consists of a bundle of these threads, each capable of transmitting messages carried by light waves.

Fiber-optic cable has several advantages to metal cables:

- It has a much greater bandwidth so more data can be transmitted in a fixed amount of time.
- It's less susceptible to interference.
- It's thinner and lighter than metal cables.
- Data can be transmitted digitally rather than analogically.

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Petition of Sun Prairie Water & Light)
 Commission for Certification as a Competitive)
 Local Exchange Carrier and as an Alternative)
 Telecommunications Utility)

Docket No. 581D-NC-100

**PETITION OF SUN PRAIRIE WATER & LIGHT COMMISSION FOR
CERTIFICATION AS A COMPETITIVE LOCAL EXCHANGE CARRIER AND
AS AN ALTERNATIVE TELECOMMUNICATIONS UTILITY**

Pursuant to Section 196.203, Wis. Stats., the Sun Prairie Water & Light Commission (the "Commission"), a commission of the City of Sun Prairie created pursuant to Section 66.068, Stats. and Section 2-4-7 of the Sun Prairie Code of Ordinances hereby petitions for certification as an alternative telecommunications utility, as defined in Section 196.01(1d)(f), Stats., and certification as a competitive local exchange carrier, authorized to provide statewide intrastate interLATA and intraLATA toll telecommunications services, resale of services authorized for resale, facilities-based local exchange service and other telecommunications services in all the territories and exchanges served by GTE North Incorporated ("GTE"), Wisconsin Bell d/b/a Ameritech, Wisconsin ("Ameritech"), and Mid-Plains, Inc. ("Mid-Plains")¹ as the principal providers of local exchange service in Wisconsin. This complies with the requirements of the Telecommunications Act of 1996, 47 U.S.C. §§ 151, et. seq., Chapter 196 of the Wisconsin Statutes and the order of the Public Service Commission of Wisconsin ("PSCW") in Docket No. 05-TI-138.

¹ At this time, the Commission is not seeking authorization to provide local exchange service in the local service exchange areas of CenturyTel of the Midwest-Kendall, Inc.

to manage a telecommunications utility to provide telecommunications service to the governmental departments of the City of Sun Prairie, to the Sun Prairie Area School District, and to businesses and residents within the Commission's service area and to carry out all associated activities to the fullest extent permitted by applicable State and federal law. A copy of this Ordinance is attached as Exhibit A.

The Commission complies with the PSCW's directives regarding public utility accounting and follows the PSCW's Chart of Accounts and maintains separate accounting records for each of the utilities under its management. The Commission maintains its water and electric utility funds in separate accounts, and will also keep the funds of its telecommunications utility in a separate account. Regarding the income from these municipal public utilities, the Commission abides by Section 66.069(c), Stats., which mandates the manner in which income from a municipal public utility is to be used. With respect to other telecommunications service providers operating within the Commission's service area, the Commission intends to operate its telecommunications utility on a non-discriminatory basis.

C. Description Of The Types Of Services To Be Offered And Classes Of Customers To Be Served

The Commission intends to install and operate a service area wide ATM (Asynchronous Transfer Mode) Network. This network will allow the Commission to provide telecommunications services to governmental, commercial and residential customers.

The types of services which will initially be provided include the following:

- **Fiber Leasing.** Fiber will be installed and available to customers to lease.
- **Wide Area Network Services.** Wide Area Network Services offer customers a fully integrated, facilities-based solution engineered to provide high-speed connectivity between a customer's headquarters location and remote sites. All connections are provisioned across the ATM network via virtual private wide area networks. The Wide Area Network will allow the following services:
 - **Data Services.** The ATM network will allow customers to connect their headquarters' Local Area Network (LAN) to remote LANs at high speeds.

- **Voice Services.** The ATM network will allow customers to connect their headquarters' PBX (Private Branch Exchange) phone switch to remote PBX phone switches.
- **Video Services.** The ATM network will allow customers to connect to remote sites for distance learning and video conferencing.
- **Wireless Services.** The ATM network will allow customers to connect wireless systems to remote sites.
- **Internet Service.** The ATM network will provide customers with high speed Internet access and E-mail services.
- **Future Services.** The types of services that could be provided in the future include the following:
 - Cable Television Service
 - Local Exchange Services (voice)
 - Long Distance Telephone Access
 - Distance Learning
 - Security Monitoring

D. Geographic Market And Originating Exchanges To Be Served

The Commission intends to provide service within the greater Sun Prairie area.

E. Identity Of All Underlying Carriers From Which Service Is To Be Obtained And A Copy Of Carrier-To-Carrier Arrangements

The Commission will provide the proposed services using its own facilities, facilities leased from others and the existing facilities of GTE, and other carriers upon completion of all necessary interconnection agreements. To date, the Commission has not completed negotiations of an interconnection agreement with any carriers concerning the provision of services in Wisconsin.

F. The Location And Description Of Network And Switching Facilities

The Commission intends to offer local exchange service through the use of its own facilities, lease of facilities from others and the resale of services of other certified

BEFORE THE PUBLIC SERVICE
COMMISSION OF WISCONSIN

Petition of the City of Reedsburg)
and the Reedsburg Utility)
Commission for Certification as a)
Competitive Local Exchange)
Carrier and as an Alternative)
Telecommunications Utility)

Docket No. 4970-NC-100

PETITION OF THE CITY OF REEDSBURG AND THE REEDSBURG
UTILITY COMMISSION FOR CERTIFICATION AS A COMPETITIVE
LOCAL EXCHANGE CARRIER AND AS AN ALTERNATIVE
TELECOMMUNICATIONS UTILITY

Pursuant to Wis. Stats. § 196.203, the City of Reedsburg, Wisconsin, acting alone and by and through the Reedsburg Utility Commission ("Reedsburg"), hereby petitions for certification as an alternative telecommunications utility, as defined in Wis. Stats. § 196.01(1d)(f), to provide statewide intrastate interLATA and intraLATA toll telecommunications services, resale of services authorized for resale, facilities-based switched local exchange service to residential and business customers in the present Wisconsin Bell, Inc., d/b/a Ameritech Wisconsin ("Ameritech"), GTE North Incorporated ("GTE"), and Mid-Plains, Inc. ("Mid-Plains"),¹ local service exchange areas and private line services statewide. This Petition complies with the requirements of the Telecommunications Act of 1996, 47 U.S.C. §§ 151, et. seq., Chapter 196 of the Wisconsin Statutes and the orders of the Public Service Commission of Wisconsin ("PSC" or "Commission") in Docket No. 05-TI-138.

**I. REQUIREMENTS FOR REQUESTING AUTHORIZATION TO PROVIDE
TELECOMMUNICATIONS SERVICES**

In support of its Petition, Reedsburg states as follows:

¹At this time, Reedsburg is not seeking authorization to provide local exchange service in the local service exchange areas of CenturyTel of the Midwest-Kendall, Inc.

Commission to undertake the design, construction and operation of the communications utility and authorized the transfer of funds to the municipal utilities for that purpose. (Copies of the resolution and the charter ordinance are attached as Exhibits A and B, respectively.)

In creating the communications utility, the City of Reedsburg determined that a municipal communications system will confer public benefits by providing for the continued growth and economic development of the City and that such a system is in the best interests of the City. The City also found that a municipal communications system is in the public interest as a means of facilitating the provision of telephone, communications, data, Internet, news, video and information services to the City and its departments, the school district and the public generally within the City of Reedsburg.

Reedsburg complies with the PSC's directives regarding public utility accounting and follows the PSC's Chart of Accounts. Reedsburg maintains separate accounting records for each of its municipal utilities. Regarding its utility funds, Reedsburg maintains such funds in a separate account, and the funds of each of its municipal utilities, including the communications utility, are kept in separate accounts. Regarding the income from each municipal public utility, Reedsburg abides by Wis. Stats. § 66.069(c), which mandates the manner in which income from a municipal public utility is to be used.

With respect to other telecommunications service providers operating within the City of Reedsburg, Reedsburg intends to operate its communications utility on a non-discriminatory basis.

C. Description Of The Types Of Services To Be Offered And Classes Of Customers To Be Served

Reedsburg intends to implement a City Wide ATM (Asynchronous Transfer Mode) Network with the use of its own fiber optic facilities. This network will allow Reedsburg to provide telecommunications services to both commercial and residential customers.

The types of services Reedsburg intends to provide initially include the following:

- **Wide Area Network Services.** Wide Area Network Services offers customers a fully integrated, facilities-based solution engineered to provide high-speed connectivity between a customer's headquarters location and remote sites. All connections are provisioned across the ATM network via virtual private wide area networks. The Wide Area Network will allow the following services:

- Data Services. The ATM network will allow customers to connect their headquarters' Local Area Network (LAN) to remote LANs at high speeds. Data services will provide the customers connection speeds from 10 Mbps to 155 Mbps.
- Voice Services. The ATM network will allow customers to connect their headquarters' PBX (Private Branch eXchange) phone switch to remote PBX phone switches.
- Video Services. The ATM network will allow customers to connect to remote sites for distance learning and video conferencing.
- Wireless Services. The ATM network will allow customers to connect wireless systems to remote sites.
- Internet Service. The ATM network will provide customers with high speed Internet access and E-mail services.
- Fiber Leasing. Fiber will be available to customers to lease.
- Future Services. The types of services that could be provided in the future include the following:
 - Cable Television Service
 - Local Exchange Services (voice)
 - Long Distance Telephone Access
 - Distance Learning
 - Security Monitoring

D. Geographic Market And Originating Exchanges To Be Served

Reedsburg intends to provide service within the corporate boundaries of the City of Reedsburg and within the exchanges served by GTE, as the principal provider of local exchange service within the City. At this time, Reedsburg has no plans to serve outside of its corporate boundaries.

E. Identity Of All Underlying Carriers From Which Service Is To Be Obtained And A Copy Of Carrier-To-Carrier Arrangements

Reedsburg will provide the proposed services using its own facilities, facilities leased from others and the existing facilities of GTE and other carriers upon completion of all

Nov. 5. 1999 9:52AM PSC/WI

BEFORE THE :
PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of the Application of)
Shawano Municipal Utilities)
for Status as an Alternative)
Telecommunications Utility and)
for Authority to Provide)
Telecommunications Services)

Docket No. 535D-NC-107

**APPLICATION OF SHAWANO MUNICIPAL UTILITIES
FOR STATUS AS AN ALTERNATIVE TELECOMMUNICATIONS
UTILITY AND FOR AUTHORITY TO PROVIDE
TELECOMMUNICATIONS SERVICES**

Shawano Municipal Utilities, for itself and on behalf of the City of Shawano, Wisconsin, (collectively "Shawano") hereby applies for status as an alternative telecommunications utility, pursuant to: § 196.203, Stats., and for authority to provide all telecommunications services available for certification in this proceeding, including local exchange services, and intrastate intraLATA and interLATA toll services on a facilities and resale basis, to business and residential customers in and around Shawano, Wisconsin. Shawano requests authority to provide facilities-based local exchange service in the territories and exchanges served by Frontier Communications ("Frontier") as the principal provider of local exchange services.

This Application complies with the requirements of the Telecommunications Act of 1996, 47 U.S.C. §§ 151, et. seq., Chapter 196 of the Wisconsin Statutes and the orders of the Commission regarding the requirements for authorization to provide telecommunications services.

C. **Types of Services To Be Offered And Classes Of Customers To Be Served**

1. Wide Area Network Services - a fully integrated, facilities-based solution engineered to provide high-speed connectivity between a customer's headquarters location and remote sites. All connections are provisioned across the ATM network via virtual private wide area networks. The Wide Area Network will allow the following services:

- (a) Data Services.
- (b) Voice Services.
- (c) Video Services.
- (d) Wireless Services.
- (e) Internet Service.

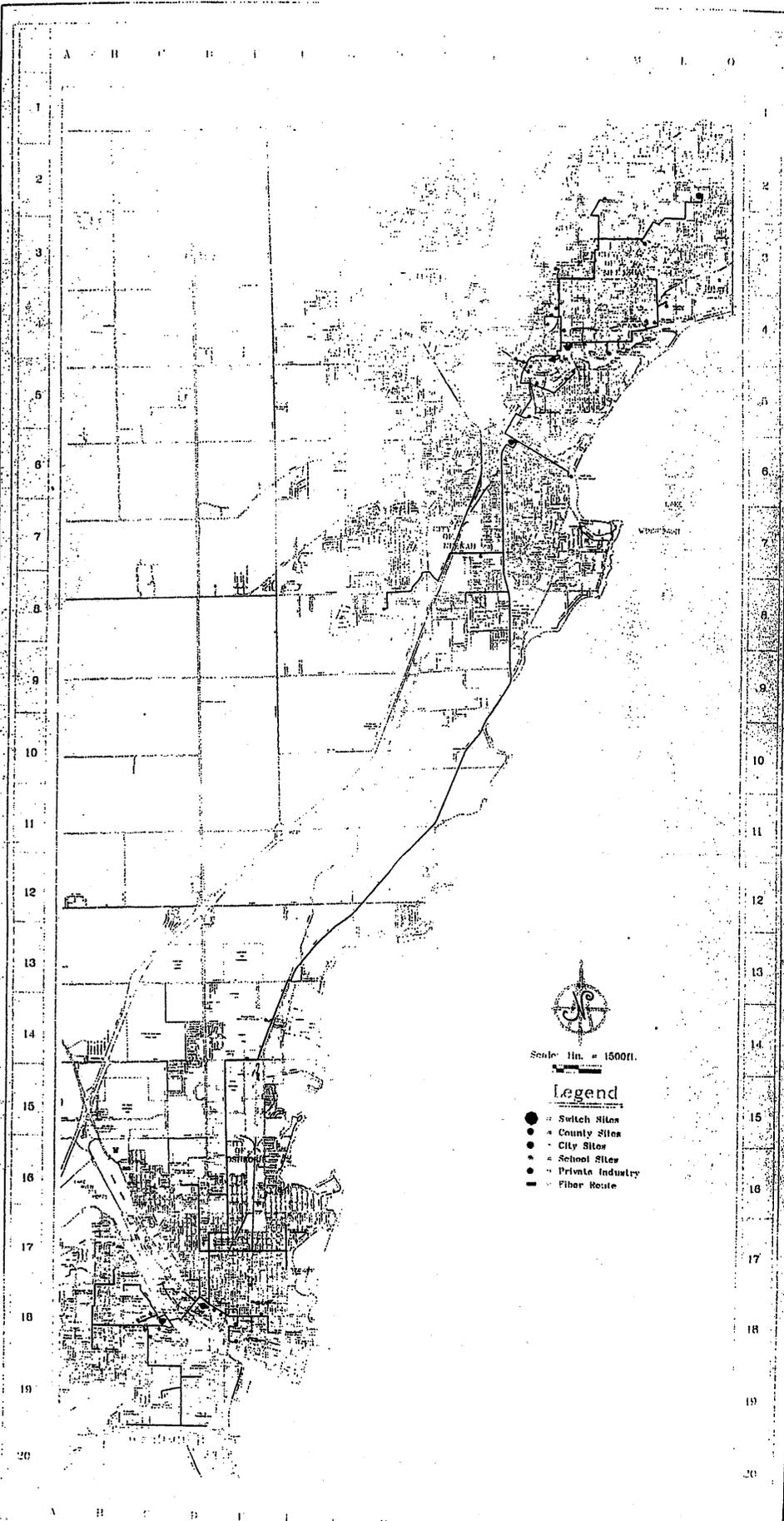
2. Fiber Leasing - will make fiber available to customers to lease.

3. Private Line Service.

4. Local Exchange Service - will enable customers to receive a dial tone and to originate and terminate local calls to other customers served by Shawano's network as well as to customers of other local exchange carriers. These services will provide dial tone access to the public switched telecommunications network and may be equipped with various features and functions.

5. Access Services - will provide services to carriers to permit them to originate and terminate calls using Shawano's network.

6. Toll Services - will provide intrastate intraLATA and interLATA toll services through its own facilities and through the resale of services of other telecommunications carriers.




 Scale: 1 in. = 1500 ft.
Legend
 ● Switch Sites
 ● County Sites
 ● City Sites
 ● School Sites
 ● Private Industry
 — Fiber Route



Your Single Source Technology Partner
 818 Lakeside Ave. St. Pete, FL 33706
 Phone (813) 371-6100 Fax (813) 378-4197

TECHNICAL DRAWING

E

F

G

H

I

J

Fiber Optic Building Connector

CITY SITES:

East Central Planning Commission K4
 Fire Station # 2 M3
 Fire Station # 3 E18
 Heckrodt Reserve N4
 Menasha City Garage M4
 Menasha City Hall K4
 Menasha Library L4
 Menasha Schools Maintenance Building L3
 Menasha Utilities Power Plant J4
 Menasha Senior Center K4
 Menasha Utilities Office K4
 Menasha Utility Water Department L4
 Northside Substation K3
 Neenah City Hall J6
 Neenah City Services G8
 Neenah Police Department J7
 Neenah Social Services L4
 Neenah Water Department L6
 Oshkosh City Hall D18
 Oshkosh City Transit C18
 Oshkosh Housing Authority E18
 Oshkosh Parks Building C18
 Oshkosh Safety Building D18
 Oshkosh Street Department C18
 Oshkosh Waste Water Plant C18

Dshkosh Water Warehouse COUNTY SITES:

Winnebago County Court House
 Winnebago County Library
 INDUSTRY SITES:
 American National Can
 Banta Corporation
 Banta Corporation
 Banta Electric
 Butte Des Morts Electric
 George Whiting Paper Company
 Gilbert Paper Company
 James River
 James River Canal
 Maplewood Electric
 Menasha Corporation
 Parkview Medical Center
 SCHOOL SITES
 Clovis Grove Elementary
 Emeline Cook Elementary
 Fox Valley Technical College
 Fox Valley Tech. Fire Training Center
 Fox Valley Tech. Regency Center
 Franklin Elementary
 Gegan Elementary
 Jefferson Elementary (Menasha)

C18

D18
E18

K5

L2

K5

K4

K4

J4

K5

K5

K4

N2

K4

F14

M3

F17

C18

H8

I8

B19

L3

M4

Jefferson Elementary (Dshkosh)

Lincoln Elementary
 Menasha High School
 Merrill Elementary & Middle School
 Nicolet Elementary
 Daktown Elementary
 Dshkosh North High School
 Dshkosh West High School
 Perry Tipler Middle School
 Read Elementary
 Roosevelt Elementary
 School Central Office
 Shapiro Elementary
 Smith Elementary
 South Park Middle School
 U.W. Fox Valley Extension
 U.W.D. Dempsey Hall
 U.W.D. Titan Stadium
 Washington Elementary
 Webster Stanley Elementary
 SWITCH SITES
 Switch Site # 1
 Switch Site # 2
 Switch Site # 5
 Switch Site # 3
 Switch Site # 4

(2) **FRANCHISES MADE INDETERMINATE.** Every license, permit or franchise granted prior to July 11, 1907, by the state or by a municipality authorizing and empowering the grantee to own, operate, manage or control within this state, either directly or indirectly, a public utility or any part of a public utility is altered and amended to constitute and be an indeterminate permit which is subject to this chapter and ch. 197. The license, permit or franchise shall have the same force and effect as a license, permit or franchise granted after July 11, 1907, to any public utility, except as provided under s. 197.02.

(3) **VALIDATION OF FRANCHISES AND PERMITS.** (a) No franchise affected by sub. (2) and no indeterminate permit shall be declared invalid if:

1. The franchise or permit was not obtained by fraud, bribery or corrupt practices.

2. When the franchise or permit was granted, no officer of the municipality granting the franchise or permit was directly or indirectly interested in the franchise or permit or in the corporation obtaining the franchise or permit.

(b) Any franchise affected by sub. (2) and any indeterminate permit is valid if:

1. The corporation having the franchise or permit, prior to surrendering of the franchise or at the beginning of its public service under the permit, in good faith has purchased or constructed any public utility, or any part of a public utility authorized by the franchise.

2. The corporation, in obtaining the franchise or permit, has substantially complied with the requirements provided by law for obtaining the franchise or permit.

(4) **GRANTS AFTER JULY 11, 1907: CONSENT TO MUNICIPAL PURCHASE.** If a public utility accepts or operates under any license, permit or franchise granted after July 11, 1907, the public utility shall be deemed to have consented under its indeterminate permit to a future purchase of its property actually used and useful for the convenience of the public by the municipality in which the major part of it is situated for the compensation and under the terms and conditions determined by the commission. The public utility shall be deemed to have waived the right to require that the necessity of taking be established by the verdict of a jury, and any other remedy or right relative to condemnation, except any remedy or right under this chapter and ch. 197.

(5) **MUNICIPAL PURCHASE INVALIDATES PERMIT.** An indeterminate permit shall be invalid if a municipality exercises its option to purchase the public utility being operated under the permit or if the permit is otherwise terminated according to law.

(6) **APPLICABILITY.** This section does not apply to a telecommunications utility.

History: 1981 c. 390; 1983 a. 53 ss. 69 to 73; 1983 a. 192; 1993 a. 496.

196.58 Municipality to regulate utilities; appeal.

(1) The governing body of every municipality may:

(a) Determine by contract, ordinance or resolution the quality and character of each kind of product or service to be furnished or rendered by any public utility within the municipality and all other terms and conditions, consistent with this chapter and ch. 197, upon which the public utility may be permitted to occupy the streets, highways or other public places within the municipality. The contract, ordinance or resolution shall be in force and on its face reasonable.

(b) Require of any public utility any addition or extension to its physical plant within the municipality as shall be reasonable and necessary in the interest of the public, and designate the location and nature of the addition or extension, the time within which it must be completed, and any condition under which it must be constructed, subject to review by the commission under sub. (4).

(c) Provide a penalty for noncompliance with the provisions of any ordinance or resolution adopted under this subsection.

(4) Upon complaint made by a public utility or by any qualified complainant under s. 196.26, the commission shall set a hear-

ing and if it finds a contract, ordinance or resolution under sub. (1) to be unreasonable, the contract, ordinance or resolution shall be void.

(5) The commission shall have original and concurrent jurisdiction with municipalities to require extensions of service and to regulate service of public utilities. Nothing in this section shall limit the power of the commission to act on its own motion to require extensions of service and to regulate the service of public utilities.

(6) No public utility furnishing and selling gaseous fuel or undertaking to furnish or sell gaseous fuel in a municipality where the fuel has not been sold previously to the public shall change the character or kind of fuel by substituting for manufactured gas any natural gas or any mixture of natural and manufactured gas for distribution and sale in any municipality, or undertake the sale of natural gas in any municipality where no gaseous fuel was previously sold, unless the governing body of the municipality, by authorization, passage or adoption of appropriate contract, ordinance or resolution, approves and authorizes the change in fuel or commencement of sale. No contract, ordinance or resolution enacted under this subsection may be inconsistent or in conflict with any certificate granted under s. 196.49.

(7) (a) If a municipality operating a water system seeks to serve consumers of an area which is part of the municipality and in the same county, but in order to serve such consumers it is necessary or economically prudent for the municipality to install mains, transmission lines, pipes or service connections through, upon or under a public street, highway, road, public thoroughfare or alley located within the boundaries of any adjacent municipality, the municipality seeking the installation may file a petition with the clerk of the legislative body of the adjacent municipality requesting approval for the installation of the mains, transmission lines, pipes or service connections. The governing body of the adjacent municipality shall act on the petition within 15 days after the petition is filed. If the governing body of the adjacent municipality fails to act within the 15-day period, the petition shall be deemed approved and the municipality may proceed with the installations required for service to its consumers. If, however, the governing body of the adjacent municipality rejects the petition, the municipality may make application to the commission for authority to install within the boundaries of the adjacent municipality the installations necessary to provide service to its consumers. The commission shall hold a hearing upon the application of the municipality. If the commission determines that it is necessary or economically prudent that the municipality seeking to serve its consumers make the installations within the boundaries of the adjacent municipality, the commission shall promptly issue an order authorizing the municipality to proceed to make the installation. In the order, the commission may establish the manner of making the installation.

(b) A municipality making an installation under this section shall restore the land on or in which such installation has been made to the same condition as it existed prior to the installation. Failure to make the restoration shall subject the municipality to an action for damages by the adjacent municipality. The adjacent municipality may require a performance bond from the municipality seeking to make the installation. If no agreement can be effected between the municipalities as to the amount of the performance bond, the commission shall determine the amount of the bond. If the commission issues an order authorizing an installation under this subsection, the commission shall determine the amount of the performance bond which shall be required of the applicant municipality.

History: 1981 c. 390; 1983 a. 53; 1995 a. 378.

196.59 Merchandising by utilities. Each public utility engaged in the production, transmission, delivery or furnishing of heat, light or power either directly or indirectly to or for the use of the public shall keep separate accounts to show any profit or loss resulting from the sale of appliances or other merchandise. The

ATTACHMENT 7

