

2001 DRAFTING REQUEST

Bill

Received: 09/27/2000

Received By: kunkemd

Wanted: As time permits

Identical to LRB:

For: Spencer Black (608) 266-7521

By/Representing: Himself

This file may be shown to any legislator: NO

Drafter: kunkemd

May Contact:

Alt. Drafters:

Subject: Public Util. - telco

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Penalty for inadequate telecommunications service

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|--------------------|------------------------|----------------|----------------------------|---------------------------------|-----------------|
| /1 | kunkemd 11/06/2000 | jdye 11/06/2000 | rschluet 11/06/2000 | | lrb_docadmin 11/06/2000 | lrb_docadminState 01/19/2001 | |

FE Sent For:

<END>

→ At Intro.

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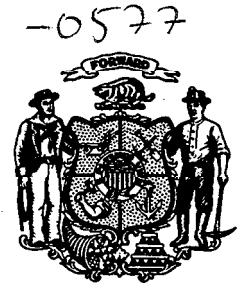
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| 17 | kunkemd | 1 11/6 jld | <i>[Signature]</i> 11-6-00 | <i>[Signature]</i> 10-6-00 km | | | |

FE Sent For:

<END>

State Representative Spencer Black



State Capitol
P.O. Box 8952
Madison, WI 53708
(608) 266-7521

TO: Peter Dykman, Chief of Legislative Reference Bureau

FROM: Representative Spencer Black

DATE: September 27, 2000

RE: Draft Assembly Bill for the upcoming 2001-2002 legislative session.

Please draft an Assembly bill for me that will change s. 196.196 (1)(2c).

The intent of this bill is to increase the penalty for telecommunications companies for inadequate service rendered to its customers. The existing penalty is up to 1% and this bill will change the current language to read 'up to 25%.'

Thank you for your assistance.

accounting or reporting requirement under sub. (5) only if, with consideration given to any conditions imposed under sub. (7), the commission determines that it will have enough information to determine whether the suspension of the application of any provision of law under sub. (5) is justified at any time after the suspension is ordered.

(10) **REVOCAION OF DEREGULATION.** If necessary to protect the public interest, the commission, at any time by order, may revoke its order to suspend the applicability of any provision of law suspended under sub. (5).

(12) **INCENTIVE REGULATION FOR TELECOMMUNICATIONS UTILITIES.** (a) To provide incentives for telecommunications utilities to achieve any of the goals listed in par. (b) 1. a., the commission may suspend any of the provisions listed in sub. (5) except ss. 196.19, 196.20 (1m), 196.22, 196.26, 196.37, 196.60 and 196.604 or may approve a regulatory method alternative to traditional rate-of-return regulation that does not require suspension of any provisions listed in sub. (5).

(b) 1. Except as provided in subd. 2., after opportunity for hearing, the commission shall determine whether it is in the public interest to suspend any of the provisions identified in par. (a) or to approve an alternative regulatory method. In making this determination, the commission shall identify all of the following:

a. The goals to be achieved, which may include promoting competition, infrastructure deployment, economic development, consumer choice, productivity, efficiency, quality of life, societal goals or universal service.

b. The authorized incentive and how the incentive is expected to help achieve the identified goals.

c. The measurement to be used to evaluate successful attainment of the identified goals.

d. The extent to which a telecommunications utility has contributed to the Wisconsin advanced telecommunications foundation established under s. 14.28.

2. If the commission suspends the application of any provision identified in par. (a) or approves an alternative regulatory method for any telecommunications utility, the commission may waive the hearing opportunity required under subd. 1., with notice to all known interested parties, for any similarly situated telecommunications utility, if the waiver is in the public interest.

3. The commission shall regulate telecommunications utilities with the goal of developing alternative forms of regulation. The commission shall, by order, develop and approve an incentive regulatory plan for each telecommunications utility to implement this subdivision. The commission may not increase regulation of a small telecommunications utility in implementing this subdivision. For telecommunications utilities with more than 150,000 access lines in use in this state, s. 196.196 (2) applies to access service rates in any regulatory plan approved under this subdivision.

(c) Subsections (7), (8) and (10) apply to a proceeding under this subsection.

(d) 1. If after 10 days' written notice and opportunity for interested persons to comment the commission finds that a telecommunications utility has adequately demonstrated that a telecommunications service which it offers and which is subject to the jurisdiction of the commission is subject to competition that may justify a lesser degree of regulation under sub. (5) and that it may be materially disadvantaged in such competition without commission authorization under this paragraph, the commission, prior to a determination under sub. (5), may authorize the telecommunications utility to provide the telecommunications service under a tariff which specifies a range of rates which may be charged for the service or may authorize the telecommunications utility to file a price list for the service which is effective upon at least 10 days' written notice to affected consumers.

2. If the commission authorizes a telecommunications utility to provide a service under subd. 1., the telecommunications utility may not provide the service at a price which does not recover total service long-run incremental cost.

3. The commission may investigate the price of any service authorized under subd. 1. to assure that the price complies with subd. 2. and may suspend any price which does not comply with subd. 2.

4. A request for authorization under subd. 1. constitutes a request for a hearing on partial deregulation under sub. (2). An order granting such authorization expires on the first day of the 9th month following its issuance or upon the date of the commission order granting or denying suspension of any provision of law under sub. (5), whichever is earlier, unless extended by the commission for good cause pending issuance of a final order.

(e) If under this subsection the commission authorizes a telecommunications utility to provide a telecommunications service under a tariff that specifies a range of rates which may be charged for the service or authorizes the telecommunications utility to file a price list for the service which is effective after a minimum period of notice to affected customers, the telecommunications utility may not provide the service at a price which does not recover total service long-run incremental cost.

History: 1985 a. 297; 1987 a. 403 s. 256; 1993 a. 496; 1997 a. 140.

196.196 Telecommunications utility price regulation.

(1) PRICE REGULATION OF BASIC LOCAL EXCHANGE SERVICES.

(a) 1. This subsection governs rates for basic local exchange service, standard business access lines and usage by small businesses with no more than 3 access lines and basic message telecommunications service and any changes in those rates for telecommunications utilities electing to be price regulated. A telecommunications utility shall elect to become a price-regulated utility by filing a written election with the commission.

2. The commission may include, following notice and opportunity for hearing, as part of the services subject to price regulation under this subsection all of the following:

a. Those services and technological features found by the commission to be a necessary component of universal service under s. 196.218.

b. Advanced telecommunications services, if the commission finds that the advanced telecommunications service is essential to the public interest; that the advanced telecommunications service, or reasonably equivalent service, is not available at reasonable prices and terms and conditions from alternative providers; and that price regulation of the advanced telecommunications service is essential to the public interest.

(b) If a telecommunications utility elects to become a price-regulated telecommunications utility within 30 days after September 1, 1994, the telecommunications utility shall set the initial rates to be charged under this section for services under par. (a) and file the rates with the commission. The rates shall be effective at the time specified in the filing with the commission. The rates shall not be greater than the rates allowed for the telecommunications utility for those services as of December 31, 1993, unless the telecommunications utility has more than 500,000 access lines in use in this state, in which case the telecommunications utility shall reduce its rate for residential access line service and for single line business access line service by at least 10%. If a telecommunications utility elects to become a price-regulated telecommunications utility more than 30 days after September 1, 1994, the telecommunications utility shall set the initial rates and file those rates with the commission on at least 45 days' notice. The rates shall be no higher than those in effect on the December 31 immediately preceding the election unless the telecommunications utility has more than 500,000 access lines in use in this state, in which case the telecommunications utility shall reduce its rate for residential access line service and for single line business access line service by at least 10%.

(c) A price-regulated telecommunications utility may not increase its rates for services under par. (a), except for basic message telecommunications service, for a period of 3 years after electing to become price regulated. Following the initial 3-year period for services under par. (a), except for basic message tele-

communications service, and at any time for basic message telecommunications service, a price-regulated telecommunications utility may increase its rates for those services to the extent that the change in the revenue weighted price indices does not exceed 2 percentage points less than the most recent annual change in the gross domestic product price index, as published by the federal government. The commission shall, by rule, create a penalty mechanism for up to a one percentage point increase in the percentage offset for inadequate service provided by or insufficient investment made by a price-regulated telecommunications utility. The commission shall, by rule, create an incentive mechanism for up to a one percentage point decrease in the percentage offset to encourage infrastructure investment by the price-regulated telecommunications utility. For a telecommunications utility with more than 500,000 access lines in use in this state at the time of electing to become price regulated, the percentage offset to the change in the gross domestic product price index shall be 3 percentage points and the penalty mechanism and incentive mechanism shall be up to 2 percentage points. No earlier than 6 years after September 1, 1994, and no more frequently than every 3 years thereafter, the commission may, following notice and an opportunity for hearing, by rule increase or decrease the gross domestic product price index percentage offset by a maximum of one percentage point in any 12-month period to reflect any state-wide changes in the productivity experience of the telecommunications industry. The commission shall promulgate rules to identify the factors that the commission may consider in determining changes in the productivity experience of the telecommunications industry. If application of the price regulation index formula achieves a negative result, prices shall be reduced so that the cumulative price change for services under par. (a), including prior price reductions in these services, achieves the negative result. Annual permitted price increases may be deferred and accumulated for a maximum of 3 years into a single increase. The first permitted increase after the telecommunications utility elects to become price regulated shall be limited by the most recent annual change in the gross domestic product price index, less 2 percentage points, plus or minus any penalty or incentive adjustment. For a telecommunications utility with more than 500,000 access lines in use in this state, the first permitted increase shall be limited by the most recent annual change in the gross domestic product price index, less 3 percentage points, plus or minus any penalty or incentive adjustment. The increase in any rate element may not at any time exceed 10% or the increase in the gross domestic product price index, whichever is greater. A rate change under this paragraph shall take effect 45 days after the date on which notice is received by the commission. A telecommunications utility shall notify customers of a rate change under this paragraph by a bill insert that is included in a bill no later than the first billing provided after notice of a rate change is submitted to the commission. A telecommunications utility may file only one rate increase under this paragraph during any 12-month period.

(cm) The commission shall consider the extent to which a telecommunications utility has contributed to the Wisconsin advanced telecommunications foundation established under s. 14.28 when making penalty or incentive adjustments under par. (c).

(d) A price-regulated telecommunications utility may reduce the price for any service under par. (a) on one day's notice filed with the commission. A price-regulated telecommunications utility may alter the rate structure for any service under par. (a) on 10 days' prior notice to the commission, provided that the pre-existing rate structure continues to be offered to customers.

(e) 1. Notwithstanding pars. (c) and (d) but not earlier than 3 years after electing to become a price-regulated telecommunications utility, a price-regulated telecommunications utility may alter its rate structure or increase rates for services under par. (a) on 120 days' prior notice to the commission. The notice to the commission under this subdivision shall be accompanied with documentary support that the change is just and reasonable. The

commission shall establish by rule documentation requirements under this subdivision.

2. Upon complaint filed by an affected party or on the commission's own motion, the commission may initiate an investigation of a proposed rate change within 60 days after receiving the notice. Within 120 days after initiating an investigation and following a hearing, the commission shall issue an order approving, modifying or rejecting the rate change. The commission may suspend a proposed rate structure alteration or rate increase pending the issuance of the order.

3. The commission's review of a proposed rate change may consider only the following:

- a. Cost allocations of costs outside of the control of the telecommunications utility to services under par. (a).
- b. Competition.
- c. Network and service quality, improvement and maintenance.
- d. Changes in the costs of providing the service that are outside of the control of the telecommunications utility.
- e. Impact of the proposed change on the public interest.

(f) A telecommunications utility shall give notice of any proposed rate change under par. (c), (d) or (e) to its customers. Notice shall be published in a newspaper of general circulation in the service area to be affected within a reasonable time period after the notice of the rate change is given to the commission, and shall be included in or on the bill of each affected customer in the billing first following notice to the commission. The notice to customers shall contain all of the following:

1. An estimate of the dollar amount of the monthly change for the typical residential customer that would result if the rate change becomes effective.
2. A statement that a customer who desires to comment on the rate change may call or write the commission or who desires the complete details of the rate change may call or write the telecommunications utility.
3. A statement that describes the nature and extent of the commission's review of the proposed rate change.

(g) 1. Five years after a telecommunications utility elects to become a price-regulated telecommunications utility or, if subd. 4. applies, within the dates specified in that subdivision, the commission shall hold a hearing, and at any time thereafter, upon complaint or on the commission's own motion, the commission may hold a hearing, to determine whether it is in the public interest to suspend one or more of the provisions of this subsection as it applies to a price-regulated telecommunications utility or to approve an alternative regulatory method for that utility. In making a determination under this subdivision, the commission shall identify all of the following:

- a. The goal to be achieved, which may include promoting competition, infrastructure deployment, economic development, consumer choice, productivity, efficiency, quality of life, societal goals or universal service.
- b. The suspension or method to be approved and how the decision is expected to help achieve the identified goals.
- c. The criteria to be used to evaluate success of the change.

1m. In making a determination under subd. 1., the commission shall consider if the telecommunications utility is adequately serving geographical areas with diverse income or racial populations.

2. If the commission suspends the application of any provision of this subsection or approves an alternative regulatory method under subd. 1., the commission, upon its own motion or a petition from an interested person, may waive the hearing required under subd. 1., with notice to all known interested parties, for any similarly situated telecommunications utility, if waiver is in the public interest.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0577/1

MDK:.....

D-NOTE

jld

2001 BILL

gen

1 AN ACT ...; relating to: service rates of telecommunications utilities that are
2 subject to price regulation.

Analysis by the Legislative Reference Bureau indexes

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

The amount of the offset percentage and the penalty and incentive adjustments depend on the size of a telecommunications utility. For a telecommunications utility that had more than 500,000 access lines in use in the state when it elected to subject itself to price regulation, the offset percentage is ~~three percent~~ ^{3%}, which is subject to a penalty adjustment that may not exceed ~~two percent~~ and an incentive adjustment that may not exceed ~~two percent~~. For all other telecommunications utilities, the offset percentage is ~~two percent~~ ^{1%}, which is subject to a penalty adjustment that may not exceed ~~one percent~~ and an incentive adjustment that may not exceed ~~one percent~~ ^{1%}. The public service commission is required to promulgate rules that establish the penalty and incentive adjustments.

1%

2%

BILL

This bill changes the penalty adjustment to the offset percentage. Under the bill, the penalty adjustment may not exceed 25 ~~percent~~^{7%}. In addition, the same penalty adjustment applies regardless of the size of a telecommunications utility.

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

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

X

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

196.196 (1) (c) 1. A price-regulated telecommunications utility may not increase its rates for services under par. (a), except for basic message telecommunications service, for a period of 3 years after electing to become price regulated. Following the initial 3-year period for services under par. (a), except for basic message telecommunications service, and at any time for basic message telecommunications service, a price-regulated telecommunications utility may increase its rates for those services to the extent that the change in the revenue weighted price indices does not exceed 2 percentage points less than the most recent annual change in the gross domestic product price index, as published by the federal government. The commission shall, by rule, create a penalty mechanism for up to a one 25 percentage point increase in the percentage offset for inadequate service provided by or insufficient investment made by a price-regulated telecommunications utility. The commission shall, by rule, create an incentive mechanism for up to a one percentage point decrease in the percentage offset to encourage infrastructure investment by the price-regulated telecommunications utility. For a telecommunications utility with more than 500,000 access lines in use in this state at the time of electing to become price regulated, the percentage offset to the change in the gross domestic product price index shall be 3 percentage points

BILL

1 and, the penalty mechanism shall be up to 25[✓] percentage points, and the incentive
2 mechanism shall be up to 2 percentage points. No earlier than 6 years after
3 September 1, 1994, and no more frequently than every 3 years thereafter, the
4 commission may, following notice and an opportunity for hearing, by rule increase
5 or decrease the gross domestic product price index percentage offset by a maximum
6 of one percentage point in any 12-month period to reflect any statewide changes in
7 the productivity experience of the telecommunications industry. The commission
8 shall promulgate rules to identify the factors that the commission may consider in
9 determining changes in the productivity experience of the telecommunications
10 industry. If application of the price regulation index formula achieves a negative
11 result, prices shall be reduced so that the cumulative price change for services under
12 par. (a), including prior price reductions in these services, achieves the negative
13 result.

History: 1993 a. 496; 1999 a. 29, 85.

14

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0577/1dn

MDK.:....

JLd

Representative Black:

Please review this bill very carefully to make sure that it achieves your purpose. Note that I assume that you want to change the penalty mechanism for all price-regulated telecommunications utilities, regardless of their size.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0577/1dn
MDK:jld:rs

November 6, 2000

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Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

November 6, 2000

MEMORANDUM

To: Representative Black

From: Mark D. Kunkel, Legislative Attorney

Re: LRB-0577 Penalty for inadequate telecommunications service

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0131 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.