

**2001 Jr2 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-AB1)**

Received: 03/28/2002

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Engel**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Tax - sales  
Trade Regulation - other  
Public Util. - telco**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

SCC:.....Engel - CN7611, 5524

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**Topic:**

Senate task force on telecommunications issues

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**Instructions:**

See Attached

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**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>
/?	kunkemd 03/29/2002	csicilia 03/29/2002					
/1			chanaman 03/29/2002		lrb_docadmin 03/29/2002		

FE Sent For:

<END>

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<END>

## Senate Task Force on Telecommunications Issues

- Incorporate the provisions of LRB s0339/8 (copy attached). This draft is the work product of Senator Jauch's work with the Senate Task Force on Telecommunications Issues. This proposal has been endorsed by all three PSC commissioners and would provide consumers with protections against slamming and cramming and would grant the PSC authority to promulgate standards and penalties regarding both retail and wholesale telephone service.
- This proposal has not been the subject of a previous paper or motion, although the provisions relating to consumer protection and the sales tax imposed on the sales of mobile telecommunications services were included in the Assembly Amendment to the Joint Finance version of the budget adjustment bill.
- Effect on revenues:

Provisions relating to DATCP and PSC: according to fiscal notes to SB 451, these costs can be absorbed by agency budgets.

CN 7611

62871

MDK

2001

Date (time) needed \_\_\_\_\_

LRB b. 2871, 1

**CAUCUS BUDGET AMENDMENT**  
[CAUCUS AMDTS. ONLY]

MDK : cjs :

RM NOT QUN

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT**  
**TO SENATE SUBSTITUTE AMENDMENT 1**  
**TO 2001 SPECIAL SESSION ASSEMBLY BILL 1**

SA ✓

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated; amend the substitute amendment as follows:

- #. Page 139, line 16: *after that line insert:*
- #. Page ~~.....~~, line ~~.....~~:
- #. Page ~~.....~~, line ~~.....~~:
- #. Page ~~.....~~, line ~~.....~~:
- #. Page ~~.....~~, line ~~.....~~:
- #. Page ~~.....~~, line ~~.....~~:

1 payments by certain telecommunications providers; requesting the joint  
2 legislative council to study cross-subsidization; providing exemptions from  
3 rule-making procedures, granting rule-making authority, and providing a  
4 penalty.

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

5 ll SECTION <sup>233b</sup> 1. 77.52 (2) (a) 5. of the statutes is renumbered 77.52 (2) (a) 5. a. and  
6 amended to read:

7 77.52 (2) (a) 5. a. The sale of telecommunications services, except services  
8 subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either originate or  
9 terminate in this state; except services that are obtained by means of a toll-free  
10 number, that originate outside this state and that terminate in this state; and are  
11 charged to a service address in this state, regardless of the location where that charge  
12 is billed or paid; and the sale of the rights to purchase telecommunications services,  
13 including purchasing reauthorization numbers, by paying in advance and by using  
14 an access number and authorization code, except sales that are subject to subd. 5. b.

15 SECTION <sup>233d</sup> 2. 77.52 (2) (a) 5. b. of the statutes is created to read:

16 77.52 (2) (a) 5. b. The sale of services subject to 4 USC 116 to 126, as amended  
17 by P.L. 106-252, if the customer's place of primary use of the services is in this state,  
18 as determined under 4 USC 116 to 126, as amended by P.L. 106-252. For purposes  
19 of this subd. 5. b., all of the provisions of 4 USC 116 to 126, as amended by P.L.  
20 106-252, are adopted, except that if 4 USC 116 to 126, as amended by P.L. 106-252,  
21 or the application of 4 USC 116 to 126, as amended by P.L. 106-252, is found  
22 unconstitutional the sale of telecommunications services is subject to the tax  
23 imposed under this section as provided in subd. 5. a.

233F

1 SECTION 8. 77.52 (3m) (intro.) of the statutes is amended to read:

2 77.52 (3m) (intro.) In regard to the sale of the rights to purchase  
3 telecommunications services under sub. (2) (a) 5. a:

233h

4 SECTION 4. 77.52 (3n) of the statutes is created to read:

5 77.52 (3n) In regard to the sale of the rights to purchase telecommunications  
6 services under sub. (2) (a) 5. b., the situs of the sale is as determined under 4 USC  
7 116 to 126, as amended by P.L. 106-252.

233j

8 SECTION 8. 77.525 of the statutes is amended to read:

9 77.525 **Reduction to prevent double taxation.** Any person who is subject  
10 to the tax under s. 77.52 (2) (a) 5. a on telecommunications services that terminate  
11 in this state and who has paid a similar tax on the same services to another state may  
12 reduce the amount of the tax remitted to this state by an amount equal to the similar  
13 tax properly paid to another state on those services or by the amount due this state  
14 on those services, whichever is less. That person shall refund proportionally to the  
15 persons to whom the tax under s. 77.52 (2) (a) 5. a was passed on an amount equal  
16 to the amounts not remitted.

233K

17 SECTION 6. 77.54 (46m) of the statutes is created to read:

18 77.54 (46m) The gross receipts from the sale of and the storage, use, or other  
19 consumption of telecommunications services, if the telecommunications services are  
20 obtained by using the rights to purchase telecommunications services, including  
21 purchasing reauthorization numbers, by paying in advance and by using an access  
22 number and authorization code; and if the tax imposed under s. 77.52 or 77.53 was  
23 previously paid on the sale or purchase of such rights.

233L

24 SECTION 7. 77.72 (3) (b) of the statutes is amended to read:

# Page 154, line 4: after that line insert:

1 77.72 (3) (b) ~~Exceptions. Communication~~ A communication service has a situs  
2 where the customer is billed for the service if the customer calls collect or pays by  
3 credit card. Services subject to s. 77.52 (2) (a) 5. b. have a situs at the customer's place  
4 of primary use of the services, as determined under 4 USC 116 to 126, as amended  
5 by P.L. 106-252. Towing services have a situs at the location to which the vehicle is  
6 delivered. Services performed on tangible personal property have a situs at the  
7 location where the property is delivered to the buyer. ✓

8 <sup>259m</sup> SECTION 8. 93.01 (1r) of the statutes is created to read:

9 93.01 (1r) "Civil investigative demand" means a written document prepared  
10 by the department that is related to the enforcement of chs. 93 to 100 and that orders  
11 a person to do any of the following:

12 (a) Provide originals or copies of documents, records, or reports in the person's  
13 custody.

14 (b) Answer specific questions submitted by the department in the form of  
15 written depositions, interrogatories, or requests for admissions.

16 (c) Allow employees of the department to review and copy documents, records,  
17 or reports in the person's custody. ✓

18 <sup>259u</sup> SECTION 9. 93.14 (1m) of the statutes is created to read:

19 93.14 (1m) (a) Any person who has been served with a department complaint,  
20 notice, order, or other process as authorized in s. 93.18 (5) shall be subject to the  
21 department's authority and jurisdiction, as limited by par. (b).

22 (b) The department's jurisdiction may not exceed the jurisdiction granted to  
23 courts under s. 815.05.

24 <sup>259v</sup> SECTION 10. 93.14 (3) of the statutes is amended to read:

# Page 154, line 17: after that line insert:

1 93.14 (3) Any person who shall unlawfully fail to attend as a witness, fail to  
2 comply with a subpoena, order, or civil investigative demand, or refuse to testify may  
3 be coerced as provided in s. 885.12.

4 SECTION <sup>e 259w</sup> 11. 93.15 (1) of the statutes is amended to read:

5 93.15 (1) The department may, by general or special order, require persons  
6 ~~engaged in business~~ to file with the department, at such time and in such manner  
7 as the department may direct, sworn or unsworn reports or sworn or unsworn  
8 answers in writing to specific questions, as to any matter which the department may  
9 investigate.

10 SECTION <sup>e 259x</sup> 12. 93.15 (2) of the statutes is amended to read:

11 93.15 (2) The department or any of its authorized agents may have access to  
12 and may copy any document, or any part thereof, which of a document, that is in the  
13 possession or under the control of any person ~~engaged in business~~, if such the  
14 document, or ~~such part thereof of the document~~, is relevant to any matter which that  
15 the department may investigate. ✓

16 SECTION <sup>e 263b</sup> 13. 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.) and  
17 amended to read:

18 100.207 (1) DEFINITION DEFINITIONS (intro.) In this section,  
19 "telecommunications:

20 (b) "Telecommunications service" has the meaning given in s. 196.01 (9m).

21 SECTION <sup>e 263d</sup> 14. 100.207 (1) (a) of the statutes is created to read:

22 100.207 (1) (a) "Telecommunications provider" has the meaning given in s.  
23 196.01 (8p).

24 SECTION <sup>e 263f</sup> 15. 100.207 (3) (a) of the statutes is amended to read:

# Page 155, line 13: after that line insert:



1           100.207 (3) (a) A person may not engage in negative option billing or negative  
2 enrollment of telecommunications services, including unbundled  
3 telecommunications services. A person may not bill a customer for, or enroll a  
4 customer in, any telecommunications service that the customer did not affirmatively  
5 order unless that service is required to be provided by law, the federal  
6 communications commission, or the public service commission. A customer's failure  
7 to refuse a person's proposal to provide a telecommunications service is not an  
8 affirmative request for that telecommunications service. A customer's request to be  
9 enrolled in a particular telecommunications service is an affirmative request to be  
10 enrolled only in that particular telecommunications service.

11           SECTION 16. <sup>263h</sup> 100.207 (3g) of the statutes is created to read:

12           100.207 (3g) BILLING FOR OTHER SERVICES. (a) A telecommunications provider  
13 may not bill a customer for any goods or services, other than telecommunications  
14 services, unless the customer consented to the billing.

15           (b) If a customer consents to being billed under par. (a), all of the following shall  
16 apply:

17           1. The telecommunications provider shall distinguish the billing for the other  
18 goods or services from the billing for the telecommunications service in a conspicuous  
19 manner.

20           2. The telecommunications provider shall provide a detailed itemized listing  
21 of the charges for the goods or services if requested to do so by the customer.

22           3. The telecommunication provider shall disclose to the customer at the time  
23 of each billing that the customer's telecommunications service will not be affected  
24 due to a failure to pay the billing.

25           SECTION 17. <sup>263j</sup> 100.207 (5g) of the statutes is created to read:

1           100.207 (5g) RESTRICTIONS ON CONTRACTS. No telecommunications provider  
2           may place in a contract entered into with a customer located in this state a clause that  
3           provides that a law of a state other than this state applies to the parties or terms of  
4           the contract or the rights and remedies under the contract, unless the law of the other  
5           state is in conformity with the law of this state.

6           SECTION 18. <sup>263L</sup> 100.207 (5m) of the statutes is created to read:

7           100.207 (5m) RECORD REQUIREMENTS. Any person who provides  
8           telecommunications service to any customer in this state shall maintain each billing  
9           and collection record that is made in providing the telecommunications service for  
10          a period of 5 years beginning on the date that the record is made.

11          SECTION 18. <sup>263n</sup> 100.207 (6) (b) 1. of the statutes is amended to read:

12          100.207 (6) (b) 1. The department of justice, after consulting with the  
13          department of agriculture, trade and consumer protection, or any district attorney  
14          upon informing the department of agriculture, trade and consumer protection, may  
15          commence an action in circuit court in the name of the state to restrain by temporary  
16          or permanent injunction any violation of this section. Injunctive relief may include  
17          an order directing telecommunications providers, as defined in s. 196.01 (8p), to  
18          discontinue telecommunications service provided to a person violating this section  
19          or ch. 196. Temporary injunctive relief may include an order requiring that a person  
20          who provides telecommunications services deposit in an escrow account any  
21          payments that the provider has received or is expected to receive from customers as  
22          a result of practices that may violate this section or ch. 196. Before entry of final  
23          judgment, the court may make such orders or judgments as may be necessary to  
24          restore to any person any pecuniary loss suffered because of the acts or practices

1 involved in the action if proof of these acts or practices is submitted to the satisfaction  
2 of the court.

3 SECTION 20. <sup>p 263P</sup> 100.207 (6) (c) of the statutes is amended to read:

4 100.207 (6) (c) Any person who violates ~~subs. (2) to (4)~~ this section shall be  
5 required to forfeit not less than \$25 nor more than ~~\$5,000~~ \$10,000 for each offense.  
6 Each day of violation constitutes a separate offense. Forfeitures under this  
7 paragraph shall be enforced by the department of justice, after consulting with the  
8 department of agriculture, trade and consumer protection, or, upon informing the  
9 department, by the district attorney of the county where the violation occurs.

10 SECTION 21. <sup>p 263r</sup> 100.207 (6) (em) 1. of the statutes is amended to read:

11 100.207 (6) (em) 1. Before preparing any proposed rule under ~~this section par.~~  
12 (e), the department shall form an advisory group to suggest recommendations  
13 regarding the content and scope of the proposed rule. The advisory group shall  
14 consist of one or more persons who may be affected by the proposed rule, a  
15 representative from the department of justice, and a representative from the public  
16 service commission.

17 SECTION 22. <sup>p 263t</sup> 100.207 (6) (g) of the statutes is created to read:

18 100.207 (6) (g) Nothing in this subsection precludes the department from  
19 seeking a remedy or penalty in accordance with the rules promulgated under sub.  
20 (7). Practices in violation of sub. (3) may also constitute a violation of the rules  
21 promulgated under sub. (7).

22 SECTION 23. <sup>p 263v</sup> 100.207 (7) of the statutes is created to read:

23 100.207 (7) ADMINISTRATION OF FEDERAL COMMUNICATIONS COMMISSION RULES.  
24 The department shall administer and enforce the federal communications  
25 commission's unauthorized carrier change rules and remedies under 47 CFR 64.1110

# Page 177, line 14:  
after that line insert'

1 to 64.1190 and shall notify the federal communications commission, in accordance  
2 with 47 CFR 64.1110 (a), of its intention to administer and enforce those rules and  
3 remedies. In addition to the rules promulgated under sub. (6) (e), the department  
4 shall promulgate rules that are consistent with the commission's unauthorized  
5 carrier change rules and remedies under 47 CFR 64.1110 to 64.1190. ✓

6 SECTION 24. 196.196 (3) (a) of the statutes is amended to read:

7 196.196 (3) (a) Except to the extent expressly permitted by this section and ss.  
8 196.19 (1m), 196.194, 196.195, 196.1995, 196.20 (1m), 196.204, 196.209 and  
9 196.219, and 196.37, the commission may not have jurisdiction over the prices or  
10 terms and conditions for the offering of any other services, including new  
11 telecommunications services, offered by a price-regulated telecommunications  
12 utility.

13 SECTION 25. 196.196 (6) (title) of the statutes is created to read:

14 196.196 (6) (title) MANDATORY CREDITS.

15 SECTION 26. 196.196 (6) (a) of the statutes is created to read:

16 196.196 (6) (a) *Definitions*. In this subsection:

17 1. "Customer" means any person, including a telecommunications provider,  
18 that uses the services, products, or facilities provided by a telecommunications  
19 utility.

20 2. "End-user customer" means a person that receives local exchange service  
21 from a telecommunications utility or another telecommunications provider, and that  
22 does not resell the local exchange service or use such service to provide  
23 telecommunications service to any other customer.

1           3. "Large telecommunications utility" means a telecommunications utility that  
2 has more than 500,000 access lines in use in this state at the time of electing to  
3 become price regulated.

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

5           SECTION <sup>346h</sup>27. 196.196 (6) (b) of the statutes is created to read:

6           196.196 (6) (b) *Service disruptions*. 1. If the local exchange service of an  
7 end-user customer is disrupted by a large telecommunications utility, or a  
8 telecommunications utility specified in an order under par. (f), and remains  
9 disrupted for more than 24 hours after the disruption is reported to the utility, the  
10 utility shall issue a credit in an amount specified in subd. 2. to the end-user customer  
11 unless one of the following applies:

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

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

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

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

22           SECTION <sup>346j</sup>28. 196.196 (6) (c) of the statutes is created to read:

23           196.196 (6) (c) *Failure to install local exchange service*. 1. Except as provided  
24 in subd. 2., if a large telecommunications utility, or a telecommunications utility  
25 specified in an order under par. (f), fails to install local exchange service or related

1 equipment within 5 business days after an end-user customer places an order for the  
2 service or equipment, the utility shall issue a credit to the end-user customer in an  
3 amount equal to \$35 for each residential line and \$135 for each business line for each  
4 business day, or portion of a business day, beyond the 5th business day that the  
5 service or equipment is not installed.

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

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

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

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

14 SECTION <sup>346L</sup>28. 196.196 (6) (d) of the statutes is created to read:

15 196.196 (6) (d) *Failure to keep appointments.* 1. A large telecommunications  
16 utility, or a telecommunications utility specified in an order under par. (f), shall do  
17 all of the following:

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

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

24 2. Subdivision 1. a. does not apply if the telecommunications utility provides  
25 the end-user customer with 24-hour advance notice that the utility is not able to

1 keep the appointment or if a natural disaster, act of God, military action, war,  
2 insurrection, or riot prevents the utility from keeping the appointment.

3 SECTION 30. <sup>346n</sup> 196.196 (6) (e) of the statutes is created to read:

4 196.196 (6) (e) *Credit procedure*. 1. If a large telecommunications utility, or  
5 a telecommunications utility specified in an order under par. (f), is required to  
6 provide a credit to an end-user customer under this subsection, the utility shall issue  
7 the credit by adjusting the end-user customer's first bill following the event for  
8 which the credit is required.

9 2. Except for an end-user customer report under par. (b) 1., a large  
10 telecommunications utility, or a telecommunications utility specified in an order  
11 under par. (f), may not require an end-user customer to provide any notice as a  
12 condition for issuing a credit required under this subsection.

13 SECTION 31. <sup>346p</sup> 196.196 (6) (f) of the statutes is created to read:

14 196.196 (6) (f) *Other telecommunications utilities*. In addition to any other  
15 order issued by the commission, the commission may issue an order that applies the  
16 requirements of this subsection to a telecommunications utility other than a large  
17 telecommunications utility, but only if the commission finds, after notice and  
18 reasonable opportunity for hearing, that the telecommunications utility has engaged  
19 in a demonstrable pattern of poor retail service that was not caused by poor  
20 wholesale service from a telecommunications utility, or has intentionally violated  
21 any state or federal law, rule, regulation, or order relating to retail service.

22 SECTION 32. <sup>346r</sup> 196.196 (6) (g) of the statutes is created to read:

23 196.196 (6) (g) *Other remedies available*. The remedies under this subsection  
24 are not exclusive.

25 SECTION 33. <sup>346t</sup> 196.196 (6) (h) of the statutes is created to read:

1           196.196 (6) (h) *Sunset*. This subsection does not apply after the first day of the  
2           36th month beginning after the effective date of this paragraph .... [revisor inserts  
3           date].

4           **SECTION 34**<sup>346 v</sup>. 196.196 (7) of the statutes is created to read:

5           196.196 (7) PENALTY. A price-regulated telecommunications utility that  
6           provides inadequate service or makes insufficient investment may be required to  
7           forfeit no more than the dollar value of the decrease in rates that would result from  
8           applying a penalty mechanism of 10 percentage points and an incentive mechanism  
9           of zero percentage points under sub. (1) (c) 1. The commission may directly impose  
10          a forfeiture under this subsection by administrative action on a price-regulated  
11          telecommunications utility with more than 500,000 access lines in use in this state  
12          if the commission determines during its annual review of rate increases under sub.  
13          (1) (c) that the utility has provided inadequate service or made insufficient  
14          investment.

15          **SECTION 35**<sup>346 x</sup>. 196.1995 of the statutes is created to read:

16          **196.1995 Interconnection, collocation, and network elements. (1)**

17          DEFINITIONS. In this section:

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

19          (b) "Large telecommunications utility" means a telecommunications utility  
20          that has more than 500,000 access lines in use in this state at the time of electing to  
21          become price regulated.

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

23          (d) "Network element" means a facility or equipment used to provide  
24          telecommunications service. "Network element" includes features, functions, and  
25          capabilities that are provided by means of such a facility or equipment, including



1 subscriber numbers, databases, signaling systems, and information sufficient for  
2 bills or collections or that are used in transmitting, routing, or otherwise providing  
3 telecommunications service.

4 (e) “Wholesale customer” means a telecommunications provider that uses the  
5 services, products, or facilities of a large telecommunications utility to provide  
6 telecommunications service to an end-user customer.

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

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

17 **(3) COLLOCATION.** (a) A large telecommunications utility shall provide physical  
18 or virtual collocation of any type of equipment for interconnection with, or access to  
19 the network elements of, the utility or any collocated telecommunications provider  
20 at the utility’s premises, at rates and on terms and conditions that are just,  
21 reasonable, and nondiscriminatory. In this paragraph, “equipment” includes optical  
22 transmission equipment, multiplexers, remote switching modules, and  
23 cross-connects between the facilities or equipment of other collocated  
24 telecommunications providers. In this paragraph, “equipment” also includes  
25 microwave transmission facilities on the exterior or interior of any premises owned

1 or controlled by a large telecommunications utility, unless the large  
2 telecommunications utility demonstrates to the satisfaction of the commission that  
3 physical or virtual collocation of such facilities is not feasible due to technical issues  
4 or space limitations.

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

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

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

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

22 (b) A large telecommunications utility may not require a wholesale customer  
23 to purchase network elements on an unbundled basis if the utility ordinarily  
24 combines the elements to provide service to the utility's own end-user customers,

1       except at the direction of a telecommunications provider that requests unbundled  
2       network elements.

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

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

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

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

6           2. Procedures for measuring the large telecommunications utility's compliance  
7 with the standards under subd. 1.

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

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

12           SECTION 36. 196.219 (3m) of the statutes is created to read:

13           196.219 (3m) WHOLESAL SERVICE. (a) In this subsection:

14           1. "Large telecommunications utility" means a telecommunications utility that  
15 has more than 500,000 access lines in use in this state at the time of electing to  
16 become price regulated.

17           2. "Repeat trouble report" means a trouble report by a wholesale customer who  
18 has previously made a trouble report regarding the same wholesale service.

19           3. "Trouble report" means a report to a telecommunications utility by a  
20 wholesale customer about a problem regarding a wholesale service provided by the  
21 telecommunications utility.

22           4. "Wholesale services" means telecommunications services, products, or  
23 facilities, provided by a telecommunications utility to a telecommunications  
24 provider, including preordering, ordering and provisioning, maintenance and repair,  
25 network performance, unbundled elements, operator services and directory

1 assistance, system performance, service center availability, billing, and any other  
2 service that the commission specifies by order.

3 (b) No later than the first day of the 4th month beginning after the effective date  
4 of this paragraph .... [revisor inserts date], the commission shall, by order, establish  
5 minimum wholesale service standards that require a large telecommunications  
6 utility to do all of the following:

- 7 1. Provision wholesale services and related facilities in a timely manner.
- 8 2. Repair wholesale service outages in a timely manner.
- 9 3. Minimize the frequency of trouble reports, including trouble reports within  
10 30 days after initiating a wholesale service.
- 11 4. Minimize the frequency of repeat trouble reports.

12 (c) In addition to any other order issued by the commission, the commission  
13 may issue an order that applies the requirements of par. (b) to a telecommunications  
14 utility other than a large telecommunications utility, but only if the commission  
15 finds, after notice and reasonable opportunity for hearing, that the  
16 telecommunications utility has engaged in a demonstrable pattern of poor wholesale  
17 service or has intentionally violated any state or federal law, rule, regulation, or  
18 order relating to wholesale service.

19 (d) An order under par. (b) or (c) may require a telecommunications utility that  
20 fails to comply with the order to make payments to a telecommunications provider  
21 that is affected by the failure to comply or to the commission in amounts and  
22 according to schedules that are specified in the order. Any payments to the  
23 commission shall be credited to the appropriation account under s. 20.155 (1) (Lm).

24 (e) After the commission issues an order under par. (b) or (c), the commission  
25 may promulgate rules that implement the requirements of the order.

1 (f) A telecommunications utility that provides wholesale services to a  
2 telecommunications provider shall provide the services on the same terms and  
3 conditions that the utility provides to itself or to any of its affiliates.

4 SECTION <sup>346Z</sup>37. 196.37 (2) of the statutes is amended to read:

5 196.37 (2) If the commission finds that any measurement, regulation, practice,  
6 act or service is unjust, unreasonable, insufficient, preferential, unjustly  
7 discriminatory or otherwise unreasonable or unlawful, or that any service is  
8 inadequate, or that any service which reasonably can be demanded cannot be  
9 obtained, the commission shall determine and make any just and reasonable order  
10 relating to a measurement, regulation, practice, act or service to be furnished,  
11 imposed, observed and followed in the future. An order under this subsection against  
12 a large telecommunications utility, as defined in s. 196.219 (3m) (a) 1., may require  
13 the utility to make payments in amounts specified in the order to persons affected  
14 by the measurement, regulation, practice, act, or service or to the commission. Any  
15 payments to the commission shall be credited to the appropriation account under s.  
16 20.155 (1) (Lm). ✓

17 SECTION <sup>358 m</sup>38. 227.01 (13) (cm) of the statutes is created to read:

18 227.01 (13) (cm) Is an order under s. 196.1995 (5) (a) or 196.219 (3m) (a) 4. or

19 (b). ✓ *# Page 362, line 12: get that line insert:*  
20 SECTION 39. Nonstatutory provisions.

21 (29) LEGISLATIVE INTENT. The treatment of section 196.37 (2) of the statutes is  
22 intended only to clarify the authority of the public service commission. No  
23 substantive change is intended.

24 (2r) STUDY OF CROSS SUBSIDIZATION. The joint legislative council is requested to  
25 study the requirements regarding cross subsidization under section 196.204 of the

*# Page 180, line 18. get that line insert:*

# Page 437, line 9: after that line insert:

1 statutes and whether any changes to those requirements would promote competition  
2 for telecommunications services in rural markets. If the council undertakes such a  
3 study, the council shall report its findings, conclusions, and recommendations to the  
4 2003 legislature when it convenes. ✓

5 SECTION 40. Initial applicability. ✓  
6 ~~2a~~ TELECOMMUNICATIONS SERVICES. (C/S)  
7 The treatment of sections 77.52 (3m) (intro.) and (3n), 77.525, and 77.72 (3)  
8 (b) of the statutes, the renumbering and amendment of section 77.52 (2) (a) 5. of the  
9 statutes, and the creation of section 77.52 (2) (a) 5. b. of the statutes first apply to  
customer bills issued after August 1, 2002. ✓

10 ~~2a~~ (2) The treatment of section 100.207 (3) (a), (6) (b) 1., (c), (em) 1., and (g), and  
11 TELECOMMUNICATIONS SERVICES. (C/S)  
12 (7) of the statutes first applies to changes in telecommunications services made on  
the effective date of this subsection. TELECOMMUNICATIONS CONTRACTS. (C/S)

13 ~~2a~~ (3) The treatment of section 100.207 (3g) and (5g) of the statutes first applies  
14 to contracts entered into, extended, modified, or renewed on the effective date of this  
15 subsection. ✓

# Page 434, line 17: after that line insert:

16 ~~2a~~ (4) The treatment of section 196.196 (6) (b) of the statutes first applies to  
17 SERVICE DISRUPTIONS. (C/S)  
reports made on the effective date of this subsection.

18 ~~2a~~ (5) The treatment of section 196.196 (6) (c) of the statutes first applies to orders  
19 FAILURE TO INSTALL LOCAL EXCHANGE SERVICE. (C/S)  
made on the effective date of this subsection.

20 ~~2a~~ (6) The treatment of section 196.196 (7) of the statutes first applies to  
21 inadequate service provided or insufficient investment made on the effective date of  
22 this subsection. ✓

# Page 437, line 1: after that line insert:

23 SECTION 41. Effective dates. This act takes effect on the day after publication  
24 except as follows:

PENALTIES. (C/S)

# Page 445, line 5: after that line insert:

1  
2  
3  
4

(1) The treatment of section 100.207 (3) (a), (6) (b) 1., (c), (em) 1., and (g), and  
(7) of the statutes and SECTION ~~100.207~~ 9304 (29) of this act take effect on the first day of the 10th  
month beginning after publication.

(END)

TELECOMMUNICATIONS SERVICES.

C/S/S

29





State of Wisconsin  
2001 - 2002 LEGISLATURE  
January 2002 Special Session

LRBb2871/1  
MDK:cjs:cmh

SCC:.....engel – CN7611, 5524 Senate task force on telecommunications issues

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 139, line 16: after that line insert:

3 “SECTION 233b. 77.52 (2) (a) 5. of the statutes is renumbered 77.52 (2) (a) 5. a.  
4 and amended to read:

5 77.52 (2) (a) 5. a. The sale of telecommunications services, except services  
6 subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either originate or  
7 terminate in this state; except services that are obtained by means of a toll-free  
8 number, that originate outside this state and that terminate in this state; and are  
9 charged to a service address in this state, regardless of the location where that charge

1 is billed or paid, and the sale of the rights to purchase telecommunications services,  
2 including purchasing reauthorization numbers, by paying in advance and by using  
3 an access number and authorization code, except sales that are subject to subd. 5. b.

4 **SECTION 233d.** 77.52 (2) (a) 5. b. of the statutes is created to read:

5 77.52 (2) (a) 5. b. The sale of services subject to 4 USC 116 to 126, as amended  
6 by P.L. 106–252, if the customer’s place of primary use of the services is in this state,  
7 as determined under 4 USC 116 to 126, as amended by P.L. 106–252. For purposes  
8 of this subd. 5. b., all of the provisions of 4 USC 116 to 126, as amended by P.L.  
9 106–252, are adopted, except that if 4 USC 116 to 126, as amended by P.L. 106–252,  
10 or the application of 4 USC 116 to 126, as amended by P.L. 106–252, is found  
11 unconstitutional the sale of telecommunications services is subject to the tax  
12 imposed under this section as provided in subd. 5. a.

13 **SECTION 233f.** 77.52 (3m) (intro.) of the statutes is amended to read:

14 77.52 (3m) (intro.) In regard to the sale of the rights to purchase  
15 telecommunications services under sub. (2) (a) 5. a.:

16 **SECTION 233h.** 77.52 (3n) of the statutes is created to read:

17 77.52 (3n) In regard to the sale of the rights to purchase telecommunications  
18 services under sub. (2) (a) 5. b., the situs of the sale is as determined under 4 USC  
19 116 to 126, as amended by P.L. 106–252.

20 **SECTION 233j.** 77.525 of the statutes is amended to read:

21 **77.525 Reduction to prevent double taxation.** Any person who is subject  
22 to the tax under s. 77.52 (2) (a) 5. a. on telecommunications services that terminate  
23 in this state and who has paid a similar tax on the same services to another state may  
24 reduce the amount of the tax remitted to this state by an amount equal to the similar  
25 tax properly paid to another state on those services or by the amount due this state

1 on those services, whichever is less. That person shall refund proportionally to the  
2 persons to whom the tax under s. 77.52 (2) (a) 5. a. was passed on an amount equal  
3 to the amounts not remitted.

4 **SECTION 233k.** 77.54 (46m) of the statutes is created to read:

5 77.54 (46m) The gross receipts from the sale of and the storage, use, or other  
6 consumption of telecommunications services, if the telecommunications services are  
7 obtained by using the rights to purchase telecommunications services, including  
8 purchasing reauthorization numbers, by paying in advance and by using an access  
9 number and authorization code; and if the tax imposed under s. 77.52 or 77.53 was  
10 previously paid on the sale or purchase of such rights.

11 **SECTION 233L.** 77.72 (3) (b) of the statutes is amended to read:

12 77.72 (3) (b) *Exceptions.* ~~Communication~~ A communication service has a situs  
13 where the customer is billed for the service if the customer calls collect or pays by  
14 credit card. Services subject to s. 77.52 (2) (a) 5. b. have a situs at the customer's place  
15 of primary use of the services, as determined under 4 USC 116 to 126, as amended  
16 by P.L. 106–252. Towing services have a situs at the location to which the vehicle is  
17 delivered. Services performed on tangible personal property have a situs at the  
18 location where the property is delivered to the buyer.”

19 **2.** Page 154, line 4: after that line insert:

20 “**SECTION 259m.** 93.01 (1r) of the statutes is created to read:

21 93.01 (1r) “Civil investigative demand” means a written document prepared  
22 by the department that is related to the enforcement of chs. 93 to 100 and that orders  
23 a person to do any of the following:

1 (a) Provide originals or copies of documents, records, or reports in the person's  
2 custody.

3 (b) Answer specific questions submitted by the department in the form of  
4 written depositions, interrogatories, or requests for admissions.

5 (c) Allow employees of the department to review and copy documents, records,  
6 or reports in the person's custody.”

7 **3.** Page 154, line 17: after that line insert:

8 “**SECTION 259u.** 93.14 (1m) of the statutes is created to read:

9 93.14 (1m) (a) Any person who has been served with a department complaint,  
10 notice, order, or other process as authorized in s. 93.18 (5) shall be subject to the  
11 department's authority and jurisdiction, as limited by par. (b).

12 (b) The department's jurisdiction may not exceed the jurisdiction granted to  
13 courts under s. 815.05.

14 **SECTION 259v.** 93.14 (3) of the statutes is amended to read:

15 93.14 (3) Any person who shall unlawfully fail to attend as a witness, fail to  
16 comply with a subpoena, order, or civil investigative demand, or refuse to testify may  
17 be coerced as provided in s. 885.12.

18 **SECTION 259w.** 93.15 (1) of the statutes is amended to read:

19 93.15 (1) The department may, by general or special order, require persons  
20 engaged in business to file with the department, at such time and in such manner  
21 as the department may direct, sworn or unsworn reports or sworn or unsworn  
22 answers in writing to specific questions, as to any matter which the department may  
23 investigate.

24 **SECTION 259x.** 93.15 (2) of the statutes is amended to read:

1           93.15 (2) The department or any of its authorized agents may have access to  
2 and may copy any document, or any part thereof, ~~which of a document, that~~ is in the  
3 possession or under the control of any person ~~engaged in business, if such the~~  
4 document, or such part thereof of the document, is relevant to any matter ~~which that~~  
5 the department may investigate.”.

6           **4.** Page 155, line 13: after that line insert:

7           “**SECTION 263b.** 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.)  
8 and amended to read:

9           100.207 (1) ~~DEFINITION~~ DEFINITIONS. (intro.) In this section,  
10 “telecommunications:

11           (b) “Telecommunications service” has the meaning given in s. 196.01 (9m).

12           **SECTION 263d.** 100.207 (1) (a) of the statutes is created to read:

13           100.207 (1) (a) “Telecommunications provider” has the meaning given in s.  
14 196.01 (8p).

15           **SECTION 263f.** 100.207 (3) (a) of the statutes is amended to read:

16           100.207 (3) (a) A person may not engage in negative option billing or negative  
17 enrollment of telecommunications services, including unbundled  
18 telecommunications services. A person may not bill a customer for, or enroll a  
19 customer in, any telecommunications service that the customer did not affirmatively  
20 order unless that service is required to be provided by law, the federal  
21 communications commission, or the public service commission. A customer’s failure  
22 to refuse a person’s proposal to provide a telecommunications service is not an  
23 affirmative request for that telecommunications service. A customer’s request to be

1 enrolled in a particular telecommunications service is an affirmative request to be  
2 enrolled only in that particular telecommunications service.

3 **SECTION 263h.** 100.207 (3g) of the statutes is created to read:

4 100.207 (3g) BILLING FOR OTHER SERVICES. (a) A telecommunications provider  
5 may not bill a customer for any goods or services, other than telecommunications  
6 services, unless the customer consented to the billing.

7 (b) If a customer consents to being billed under par. (a), all of the following shall  
8 apply:

9 1. The telecommunications provider shall distinguish the billing for the other  
10 goods or services from the billing for the telecommunications service in a conspicuous  
11 manner.

12 2. The telecommunications provider shall provide a detailed itemized listing  
13 of the charges for the goods or services if requested to do so by the customer.

14 3. The telecommunication provider shall disclose to the customer at the time  
15 of each billing that the customer's telecommunications service will not be affected  
16 due to a failure to pay the billing.

17 **SECTION 263j.** 100.207 (5g) of the statutes is created to read:

18 100.207 (5g) RESTRICTIONS ON CONTRACTS. No telecommunications provider  
19 may place in a contract entered into with a customer located in this state a clause that  
20 provides that a law of a state other than this state applies to the parties or terms of  
21 the contract or the rights and remedies under the contract, unless the law of the other  
22 state is in conformity with the law of this state.

23 **SECTION 263L.** 100.207 (5m) of the statutes is created to read:

24 100.207 (5m) RECORD REQUIREMENTS. Any person who provides  
25 telecommunications service to any customer in this state shall maintain each billing

1 and collection record that is made in providing the telecommunications service for  
2 a period of 5 years beginning on the date that the record is made.

3 **SECTION 263n.** 100.207 (6) (b) 1. of the statutes is amended to read:

4 100.207 (6) (b) 1. The department of justice, after consulting with the  
5 department of agriculture, trade and consumer protection, or any district attorney  
6 upon informing the department of agriculture, trade and consumer protection, may  
7 commence an action in circuit court in the name of the state to restrain by temporary  
8 or permanent injunction any violation of this section. Injunctive relief may include  
9 an order directing telecommunications providers, as defined in s. 196.01 (8p), to  
10 discontinue telecommunications service provided to a person violating this section  
11 or ch. 196. Temporary injunctive relief may include an order requiring that a person  
12 who provides telecommunications services deposit in an escrow account any  
13 payments that the provider has received or is expected to receive from customers as  
14 a result of practices that may violate this section or ch. 196. Before entry of final  
15 judgment, the court may make such orders or judgments as may be necessary to  
16 restore to any person any pecuniary loss suffered because of the acts or practices  
17 involved in the action if proof of these acts or practices is submitted to the satisfaction  
18 of the court.

19 **SECTION 263p.** 100.207 (6) (c) of the statutes is amended to read:

20 100.207 (6) (c) Any person who violates ~~subs. (2) to (4)~~ this section shall be  
21 required to forfeit not less than \$25 nor more than ~~\$5,000~~ \$10,000 for each offense.  
22 Each day of violation constitutes a separate offense. Forfeitures under this  
23 paragraph shall be enforced by the department of justice, after consulting with the  
24 department of agriculture, trade and consumer protection, or, upon informing the  
25 department, by the district attorney of the county where the violation occurs.

1           **SECTION 263r.** 100.207 (6) (em) 1. of the statutes is amended to read:

2           100.207 (6) (em) 1. Before preparing any proposed rule under ~~this section~~ par.  
3           (e), the department shall form an advisory group to suggest recommendations  
4           regarding the content and scope of the proposed rule. The advisory group shall  
5           consist of one or more persons who may be affected by the proposed rule, a  
6           representative from the department of justice, and a representative from the public  
7           service commission.

8           **SECTION 263t.** 100.207 (6) (g) of the statutes is created to read:

9           100.207 (6) (g) Nothing in this subsection precludes the department from  
10          seeking a remedy or penalty in accordance with the rules promulgated under sub.  
11          (7). Practices in violation of sub. (3) may also constitute a violation of the rules  
12          promulgated under sub. (7).

13          **SECTION 263v.** 100.207 (7) of the statutes is created to read:

14          100.207 (7) ADMINISTRATION OF FEDERAL COMMUNICATIONS COMMISSION RULES.  
15          The department shall administer and enforce the federal communications  
16          commission's unauthorized carrier change rules and remedies under 47 CFR 64.1110  
17          to 64.1190 and shall notify the federal communications commission, in accordance  
18          with 47 CFR 64.1110 (a), of its intention to administer and enforce those rules and  
19          remedies. In addition to the rules promulgated under sub. (6) (e), the department  
20          shall promulgate rules that are consistent with the commission's unauthorized  
21          carrier change rules and remedies under 47 CFR 64.1110 to 64.1190.”.

22          **5.** Page 177, line 14: after that line insert:

23          **“SECTION 346b.** 196.196 (3) (a) of the statutes is amended to read:



1           196.196 (3) (a) Except to the extent expressly permitted by this section and ss.  
2           196.19 (1m), 196.194, 196.195, 196.1995, 196.20 (1m), 196.204, 196.209 and,  
3           196.219, and 196.37, the commission may not have jurisdiction over the prices or  
4           terms and conditions for the offering of any other services, including new  
5           telecommunications services, offered by a price-regulated telecommunications  
6           utility.

7           **SECTION 346d.** 196.196 (6) (title) of the statutes is created to read:

8           196.196 (6) (title) MANDATORY CREDITS.

9           **SECTION 346f.** 196.196 (6) (a) of the statutes is created to read:

10          196.196 (6) (a) *Definitions.* In this subsection:

11          1. “Customer” means any person, including a telecommunications provider,  
12          that uses the services, products, or facilities provided by a telecommunications  
13          utility.

14          2. “End-user customer” means a person that receives local exchange service  
15          from a telecommunications utility or another telecommunications provider, and that  
16          does not resell the local exchange service or use such service to provide  
17          telecommunications service to any other customer.

18          3. “Large telecommunications utility” means a telecommunications utility that  
19          has more than 500,000 access lines in use in this state at the time of electing to  
20          become price regulated.

21          4. “Local exchange service” has the meaning given in s. 196.50 (1) (b) 1.

22          **SECTION 346h.** 196.196 (6) (b) of the statutes is created to read:

23          196.196 (6) (b) *Service disruptions.* 1. If the local exchange service of an  
24          end-user customer is disrupted by a large telecommunications utility, or a  
25          telecommunications utility specified in an order under par. (f), and remains

1 disrupted for more than 24 hours after the disruption is reported to the utility, the  
2 utility shall issue a credit in an amount specified in subd. 2. to the end-user customer  
3 unless one of the following applies:

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

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

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

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

14 **SECTION 346j.** 196.196 (6) (c) of the statutes is created to read:

15 196.196 (6) (c) *Failure to install local exchange service.* 1. Except as provided  
16 in subd. 2., if a large telecommunications utility, or a telecommunications utility  
17 specified in an order under par. (f), fails to install local exchange service or related  
18 equipment within 5 business days after an end-user customer places an order for the  
19 service or equipment, the utility shall issue a credit to the end-user customer in an  
20 amount equal to \$35 for each residential line and \$135 for each business line for each  
21 business day, or portion of a business day, beyond the 5th business day that the  
22 service or equipment is not installed.

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

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

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

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

6           **SECTION 346L.** 196.196 (6) (d) of the statutes is created to read:

7           196.196 (6) (d) *Failure to keep appointments.* 1. A large telecommunications  
8 utility, or a telecommunications utility specified in an order under par. (f), shall do  
9 all of the following:

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

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

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

20           **SECTION 346n.** 196.196 (6) (e) of the statutes is created to read:

21           196.196 (6) (e) *Credit procedure.* 1. If a large telecommunications utility, or  
22 a telecommunications utility specified in an order under par. (f), is required to  
23 provide a credit to an end-user customer under this subsection, the utility shall issue  
24 the credit by adjusting the end-user customer's first bill following the event for  
25 which the credit is required.

1           2. Except for an end–user customer report under par. (b) 1., a large  
2 telecommunications utility, or a telecommunications utility specified in an order  
3 under par. (f), may not require an end–user customer to provide any notice as a  
4 condition for issuing a credit required under this subsection.

5           **SECTION 346p.** 196.196 (6) (f) of the statutes is created to read:

6           196.196 (6) (f) *Other telecommunications utilities.* In addition to any other  
7 order issued by the commission, the commission may issue an order that applies the  
8 requirements of this subsection to a telecommunications utility other than a large  
9 telecommunications utility, but only if the commission finds, after notice and  
10 reasonable opportunity for hearing, that the telecommunications utility has engaged  
11 in a demonstrable pattern of poor retail service that was not caused by poor  
12 wholesale service from a telecommunications utility, or has intentionally violated  
13 any state or federal law, rule, regulation, or order relating to retail service.

14           **SECTION 346r.** 196.196 (6) (g) of the statutes is created to read:

15           196.196 (6) (g) *Other remedies available.* The remedies under this subsection  
16 are not exclusive.

17           **SECTION 346t.** 196.196 (6) (h) of the statutes is created to read:

18           196.196 (6) (h) *Sunset.* This subsection does not apply after the first day of the  
19 36th month beginning after the effective date of this paragraph .... [revisor inserts  
20 date].

21           **SECTION 346v.** 196.196 (7) of the statutes is created to read:

22           196.196 (7) **PENALTY.** A price–regulated telecommunications utility that  
23 provides inadequate service or makes insufficient investment may be required to  
24 forfeit no more than the dollar value of the decrease in rates that would result from  
25 applying a penalty mechanism of 10 percentage points and an incentive mechanism

1 of zero percentage points under sub. (1) (c) 1. The commission may directly impose  
2 a forfeiture under this subsection by administrative action on a price-regulated  
3 telecommunications utility with more than 500,000 access lines in use in this state  
4 if the commission determines during its annual review of rate increases under sub.  
5 (1) (c) that the utility has provided inadequate service or made insufficient  
6 investment.

7 **SECTION 346x.** 196.1995 of the statutes is created to read:

8 **196.1995 Interconnection, collocation, and network elements. (1)**

9 **DEFINITIONS.** In this section:

10 (a) “End-user customer” has the meaning given in s. 196.196 (6) (a) 2.

11 (b) “Large telecommunications utility” means a telecommunications utility  
12 that has more than 500,000 access lines in use in this state at the time of electing to  
13 become price regulated.

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

15 (d) “Network element” means a facility or equipment used to provide  
16 telecommunications service. “Network element” includes features, functions, and  
17 capabilities that are provided by means of such a facility or equipment, including  
18 subscriber numbers, databases, signaling systems, and information sufficient for  
19 bills or collections or that are used in transmitting, routing, or otherwise providing  
20 telecommunications service.

21 (e) “Wholesale customer” means a telecommunications provider that uses the  
22 services, products, or facilities of a large telecommunications utility to provide  
23 telecommunications service to an end-user customer.

24 **(2) GENERALLY.** (a) A large telecommunications utility shall provide  
25 interconnection, collocation, and network elements to telecommunications providers

1 in a manner that promotes the maximum development of competitive  
2 telecommunications service offerings in this state.

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

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

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

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

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

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

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

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

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

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

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

23           2. Procedures for measuring the large telecommunications utility's compliance  
24 with the standards under subd. 1.



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

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

5           **SECTION 346y.** 196.219 (3m) of the statutes is created to read:

6           **196.219 (3m) WHOLESALE SERVICE.** (a) In this subsection:

7           1. “Large telecommunications utility” means a telecommunications utility that  
8 has more than 500,000 access lines in use in this state at the time of electing to  
9 become price regulated.

10          2. “Repeat trouble report” means a trouble report by a wholesale customer who  
11 has previously made a trouble report regarding the same wholesale service.

12          3. “Trouble report” means a report to a telecommunications utility by a  
13 wholesale customer about a problem regarding a wholesale service provided by the  
14 telecommunications utility.

15          4. “Wholesale services” means telecommunications services, products, or  
16 facilities, provided by a telecommunications utility to a telecommunications  
17 provider, including preordering, ordering and provisioning, maintenance and repair,  
18 network performance, unbundled elements, operator services and directory  
19 assistance, system performance, service center availability, billing, and any other  
20 service that the commission specifies by order.

21          (b) No later than the first day of the 4th month beginning after the effective date  
22 of this paragraph .... [revisor inserts date], the commission shall, by order, establish  
23 minimum wholesale service standards that require a large telecommunications  
24 utility to do all of the following:

25          1. Provision wholesale services and related facilities in a timely manner.

1           2. Repair wholesale service outages in a timely manner.

2           3. Minimize the frequency of trouble reports, including trouble reports within  
3 30 days after initiating a wholesale service.

4           4. Minimize the frequency of repeat trouble reports.

5           (c) In addition to any other order issued by the commission, the commission  
6 may issue an order that applies the requirements of par. (b) to a telecommunications  
7 utility other than a large telecommunications utility, but only if the commission  
8 finds, after notice and reasonable opportunity for hearing, that the  
9 telecommunications utility has engaged in a demonstrable pattern of poor wholesale  
10 service or has intentionally violated any state or federal law, rule, regulation, or  
11 order relating to wholesale service.

12           (d) An order under par. (b) or (c) may require a telecommunications utility that  
13 fails to comply with the order to make payments to a telecommunications provider  
14 that is affected by the failure to comply or to the commission in amounts and  
15 according to schedules that are specified in the order. Any payments to the  
16 commission shall be credited to the appropriation account under s. 20.155 (1) (Lm).

17           (e) After the commission issues an order under par. (b) or (c), the commission  
18 may promulgate rules that implement the requirements of the order.

19           (f) A telecommunications utility that provides wholesale services to a  
20 telecommunications provider shall provide the services on the same terms and  
21 conditions that the utility provides to itself or to any of its affiliates.

22           **SECTION 346z.** 196.37 (2) of the statutes is amended to read:

23           196.37 (2) If the commission finds that any measurement, regulation, practice,  
24 act or service is unjust, unreasonable, insufficient, preferential, unjustly  
25 discriminatory or otherwise unreasonable or unlawful, or that any service is

1 inadequate, or that any service which reasonably can be demanded cannot be  
2 obtained, the commission shall determine and make any just and reasonable order  
3 relating to a measurement, regulation, practice, act or service to be furnished,  
4 imposed, observed and followed in the future. An order under this subsection against  
5 a large telecommunications utility, as defined in s. 196.219 (3m) (a) 1., may require  
6 the utility to make payments in amounts specified in the order to persons affected  
7 by the measurement, regulation, practice, act, or service or to the commission. Any  
8 payments to the commission shall be credited to the appropriation account under s.  
9 20.155 (1) (Lm).”

10 **6.** Page 180, line 18: after that line insert:

11 “**SECTION 358m.** 227.01 (13) (cm) of the statutes is created to read:

12 227.01 (13) (cm) Is an order under s. 196.1995 (5) (a) or 196.219 (3m) (a) 4. or  
13 (b).”

14 **7.** Page 362, line 12: after that line insert:

15 “(2q) **LEGISLATIVE INTENT.** The treatment of section 196.37 (2) of the statutes is  
16 intended only to clarify the authority of the public service commission. No  
17 substantive change is intended.

18 (2r) **STUDY OF CROSS SUBSIDIZATION.** The joint legislative council is requested to  
19 study the requirements regarding cross subsidization under section 196.204 of the  
20 statutes and whether any changes to those requirements would promote competition  
21 for telecommunications services in rural markets. If the council undertakes such a  
22 study, the council shall report its findings, conclusions, and recommendations to the  
23 2003 legislature when it convenes.”

24 **8.** Page 434, line 17: after that line insert:

1           “(2q) TELECOMMUNICATIONS SERVICES. The treatment of section 100.207 (3) (a),  
2           (6) (b) 1., (c), (em) 1., and (g), and (7) of the statutes first applies to changes in  
3           telecommunications services made on the effective date of this subsection.

4           (2r) TELECOMMUNICATIONS CONTRACTS. The treatment of section 100.207 (3g)  
5           and (5g) of the statutes first applies to contracts entered into, extended, modified, or  
6           renewed on the effective date of this subsection.”.

7           **9.** Page 437, line 1: after that line insert:

8           “(2q) SERVICE DISRUPTIONS. The treatment of section 196.196 (6) (b) of the  
9           statutes first applies to reports made on the effective date of this subsection.

10          (2r) FAILURE TO INSTALL LOCAL EXCHANGE SERVICE. The treatment of section  
11          196.196 (6) (c) of the statutes first applies to orders made on the effective date of this  
12          subsection.

13          (2s) PENALTIES. The treatment of section 196.196 (7) of the statutes first applies  
14          to inadequate service provided or insufficient investment made on the effective date  
15          of this subsection.”.

16          **10.** Page 437, line 9: after that line insert:

17          “(2q) TELECOMMUNICATIONS SERVICES. The treatment of sections 77.52 (3m)  
18          (intro.) and (3n), 77.525, and 77.72 (3) (b) of the statutes, the renumbering and  
19          amendment of section 77.52 (2) (a) 5. of the statutes, and the creation of section 77.52  
20          (2) (a) 5. b. of the statutes first apply to customer bills issued after August 1, 2002.”.

21          **11.** Page 445, line 5: after that line insert:

