

2003 DRAFTING REQUEST

Bill

Received: 12/11/2003

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **John Gard (608) 266-3387**

By/Representing: **Ellen Nowak**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - telco**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gard@legis.state.wi.us**

Carbon copy (CC:) to: **cathlene.hanaman@legis.state.wi.us**
daryl.hinz@legis.state.wi.us
laura.rose@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Petitions for the PSC to determine rates for unbundled network elements or services

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>
/?							State
/P1	mkunkel 12/12/2003	kgilfoy 12/12/2003	pgreensl 12/12/2003		mbarman 12/12/2003		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P2	mkunkel 12/19/2003	kgilfoy 12/19/2003	rschluet 12/19/2003	_____	Inorthro 12/19/2003		State
/1	mkunkel 01/05/2004	kgilfoy 01/05/2004	pgreensl 01/05/2004	_____ _____ _____	lemery 01/05/2004	sbasford 01/06/2004 sbasford 01/06/2004	

FE Sent For:

At Intro.

<END>

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/?							State
/P1	mkunkel 12/12/2003	kgilfoy 12/12/2003	pgreensl 12/12/2003	<u>1/8</u>	mbarman 12/12/2003		State

Handwritten notes: 1-1/5 kmg, 1/5 p8, and a signature.

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1	mkunkel 12/12/2003	kgilfoy 12/12/2003	pgreensl 12/12/2003		mbarman 12/12/2003		
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Handwritten notes and signatures:

- 102-12/19 kmg
- Large signature (possibly 'S') with 'CN' next to it.
- 12/29/3

FE Sent For:

<END>

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Extra Copies: RJM
CMH

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Requester's email: Rep.Gard@legis.state.wi.us

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1/?	mkunkel	1/11-12/12 kmj	12/12 PS	12/12 sub			

FE Sent For:

<END>

CRB #

Bill Request for board
contact: Ellen Nowacki

-3674

AMENDMENT
TO 2003 ASSEMBLY BILL 655

At the locations indicated, amend the bill as follows:

1. Page 3, line 22: before "contributions" insert "petitions for telecommunications unbundling rates;"

2. Page 68, line 7: after that line insert:

"SECTION 171m. 196.50 (2) (i) of the statutes is created to read:
196.50 (2) (i) 1. If a telecommunications utility certified under this subsection petitions the commission to determine rates or costs of unbundled network elements or unbundled services pursuant to state or federal law, the commission shall complete the proceedings and enter a final decision on the petition within 180 days after the petition is filed with the commission.

2. If the commission fails to complete the proceedings and enter a final decision on a petition under sub-~~(2)(i)1.~~ within 180 days after the petition is filed, then the telecommunications utility that filed the petition may commence an action seeking a court order finding the commission in violation of sub-~~(2)(i)1.~~ If the court finds the commission to be in violation of sub-~~(2)(i)1.~~, it shall direct the commission to render a final decision within 45 days of the commencement of such action.

3. The court, in an action commenced under sub-~~(2)(i)2.~~, shall issue a decision within 10 days after the filing of the summons and complaint and proof of service of the summons and complaint upon the defendant, unless a party demonstrates cause for extension of this period. In any event, the court shall issue a decision within 30 days after those filings are complete.

4. If a party appeals a decision of the court under sub. (2)(i)3., the court of appeals shall grant precedence to the appeal over all other matters not accorded similar precedence by law. An appeal shall be taken within the time period specified in s. 808.04(1)."

3. Page 113, line 18: after that line insert:

"(2m) PETITIONS FOR TELECOMMUNICATIONS UNBUNDLING RATES. The treatment of section 196.50 (2) (i) of the statutes first applies to petitions pending on the effective date of this subsection. With respect to petitions pending on the effective date of this subsection, the time period specified in section 196.50 (2) (i)1. shall commence on the effective date of this subsection."

(END)

This paragraph

after
the court enters
its
order

good

see
D-N

Not needed

What happens if there are only 2 days of 180 day period left -- PSC has only 2 days left to issue a decision?

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3874/P1dn

MDK: /...
img

Rep. Gard:

Please note the following about this bill:

1. The bill imposes deadlines on courts and requires courts to give precedence to certain appeals. Because the judiciary is a coequal branch of government, these requirements may not be effective.
2. It isn't necessary to specify that an appeal must be taken within the time period specified in s. 808.04 (1), stats.

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



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3874/P1

MDK: King

Today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-NOTE

Gen. Cat.

1 AN ACT ~~relating to~~; relating to: petitions by certain telecommunications utilities
2 regarding unbundled network elements and services.

Analysis by the Legislative Reference Bureau

✓ This bill creates deadlines for the Public Service Commission (PSC) to make decisions on petitions filed by certain telephone companies for a determination of rates or costs of unbundled network elements or services. The deadlines apply to petitions filed by companies that are certified by the PSC as "telecommunications utilities" but not those companies that are certified by the PSC as "alternative telecommunications utilities". Under federal law, the telecommunications utilities may be required to provide unbundled network elements or services to alternative telecommunications utilities that compete with the telecommunications utilities. In general, unbundled network elements and services refer to the facilities and services of a telecommunications utility that a competitor needs to provide local telephone service.

Under this bill, if a telecommunications utility files a petition with the PSC on or after the effective date of the bill to determine the rates or costs of unbundled network elements or services under federal or state law, the PSC must enter a final decision on the petition no later than 180 days after the petition is filed. For such a petition that is pending with the PSC on the effective date of the bill, the PSC must enter a decision no later than 180 days after the effective date of the bill. If the PSC fails to comply with these deadlines, the telecommunications utility may commence an action in court for an order finding that the PSC has violated the bill's requirements and requiring the PSC to enter a decision on the petition no later than 45 days after the court's order.

In addition, the bill requires a court in which an action is commenced to issue a decision no later than ^{ten} 10 days after the filing of the summons and complaint and proof of service of the summons and complaint upon the PSC. However, if a party to the action demonstrates good cause, the court may extend the period for issuing a decision, except that the court must issue a decision no later than 30 days after the filings regarding an extension are complete. If a party appeals the court's decision, the bill requires the court of appeals to grant precedence to the the appeal over all other matters not accorded similar precedence by law.

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:

1 **SECTION 1.** 196.50 (2) (i) of the statutes is created to read:

2 196.50 (2) (i) 1. If a telecommunications utility certified under this subsection
3 petitions the commission to determine rates or costs of unbundled network elements
4 or unbundled services under federal or state law, the commission shall complete the
5 proceedings and enter a final decision on the petition no later than 180 days after the
6 petition is filed with the commission, except that if such a petition is pending with
7 commission on the effective date of this subdivision [revisor inserts date], the
8 commission shall complete the proceedings and enter a final decision on the petition
9 no later than 180 days after the effective date of this subdivision [revisor inserts
10 date].

11 2. If the commission fails to complete proceedings and enter a final decision as
12 required under subd. 1., the telecommunications utility that filed the petition may
13 commence an action seeking a court order finding the commission in violation of
14 subd. 1. If the court finds the commission in violation of subd. 1., the court shall order
15 the commission to complete the proceedings and enter a final decision on the petition
16 no later than 45 days after the court enters its order.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3874/P1dn
MDK:kmg:pg

December 12, 2003

Rep. Gard:

Please note the following about this bill:

1. The bill imposes deadlines on courts and requires courts to give precedence to certain appeals. Because the judiciary is a co-equal branch of government, these requirements may not be effective.
2. It isn't necessary to specify that an appeal must be taken within the time period specified in s. 808.04 (1), stats.

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

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*** CURRENT THROUGH P.L. 108-174, APPROVED 12/9/03 ***
WITH GAPS OF 108-136, 137, 139, 140, 159 THROUGH 164 AND 167 THROUGH
173

TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE
PART VI. PARTICULAR PROCEEDINGS
CHAPTER 158. ORDERS OF FEDERAL AGENCIES; REVIEW

<=1> Review Court Orders which may amend this Rule.

28 USCS § 2342 (2003)

§ 2342. Jurisdiction of court of appeals

NOTES:

... 372, 99 S Ct 1991, 4 Media L R 2535.

Court approved California Public Utilities Commission's decisions as to common cost of incumbent local exchange carrier's (ILEC's) leasing unbundled network elements to competitive local exchange carriers to exclude risk adder, holding that to extent that ILEC was arguing that Federal Communications Commission's rules, as set forth in In re Matter of Implementation of Local Competition Provisions ...

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*** CURRENT THROUGH P.L. 108-174, APPROVED 12/9/03 ***
WITH GAPS OF 108-136, 137, 139, 140, 159 THROUGH 164 AND 167 THROUGH
173

TITLE 47. TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS
CHAPTER 5. WIRE OR RADIO COMMUNICATION
COMMON CARRIERS
DEVELOPMENT OF COMPETITIVE MARKETS

=1; GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

47 USCS § 251 (2003)

§ 251. Interconnection

... rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252 [47 USCS § 252]. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

(4) Resale. The duty--

(A) to offer for resale at wholesale rates any telecommunications service that the carrier ...

... well as of any other changes that would affect the interoperability of those facilities and networks.

(6) Collocation. The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space ...

NOTES:

... FCC (2002, App DC) 292 F3d 903.

Federal Communications Commission's regulation requiring incumbent local exchange carrier to permit collocation of any type of equipment "used or useful" for interconnection or access to unbundled network elements was not reasonable interpretation of 47 USCS § 251(c)(6). U S West Communs., Inc. v AT&T Communs. (1999, DC Or) 46 F Supp 2d 1068 (criticized ...

... amd (2000, CA9 Or) 2000 US App LEXIS 26416.

Federal Communications Commission's regulation requiring incumbent local

exchange carrier to permit collocation of any type of equipment "used or useful" for interconnection or access to unbundled network elements was not reasonable interpretation of 47 USCS § 251(c)(6). *U S West Communs., Inc. v AT&T Communs.* (1999, DC Or) 46 F Supp 2d 1068 (criticized ...

§

... Incumbent Local Exchange Carrier's (ILEC's) request to impose "disaggregating" charges on Competing Local Exchange Carrier (CLEC) was reversed where Telecommunications Act of 1996 did not forbid ILEC from discriminating between CLEC requesting unbundled network elements and ILEC's own retail customers. *Mich. Bell Tel. Co. v Strand* (2002, CA6 Mich) 305 F3d 580, 2002 FED App 340P.

Incumbent telephone company's single-user ...

... user limitation that incumbent was subject to when selling OTCs at retail. *Southwestern Bell Tel. Co. v Apple* (2002, CA10 Okla) 309 F3d 713.

Remand is required for renegotiation of issue of recombination of unbundled network elements, in case involving interconnection agreement arbitrated by state utilities commission between local telephone company and competitor, because federal law has changed since commission issued its order, and agreement is no longer consistent with prevailing interpretation of 47 USCS § 251(c)(3) regarding provision of unbundled network elements. *AT&T Communs. of the Southern States, Inc. v BellSouth Telecommis.* (1998, ED NC) 7 F Supp 2d 661, remanded (2000, CA4 NC) 229 F3d 457 and (criticized in ...

... *Tel. Co. v FCC* (1999, CA8) 199 F3d 996.

Requirement of "common transport" in state agency's order that determined rates for incumbent telephone local exchange carrier to provide unbundled network elements including "common transport" was permissible under 47 USCS § 251(d)(3) as consistent state regulation. *Michigan Bell Tel. Co. v Strand* (1998, WD Mich) 26 F ...

... pay compensation. *Verizon N., Inc. v Strand* (2002, CA6 Mich) 309 F3d 935, 2002 FED App 388P.

FCC order limiting telecommunications association's members' access to certain unbundled network elements (UNE) was not barred where nothing in language of 47 USCS § 251(c)(3) or (d)(2)(B) barred FCC from making service-by-service distinction in deciding under what ...

... 2001, CA11 Fla) 268 F3d 1294, 14 FLW Fed C 1381.

Court approved California Public Utilities Commission's decisions as to common cost of incumbent local exchange carrier's leasing unbundled network elements to competitive local exchange carriers to exclude retail service costs. *AT&T Communs. of Cal., Inc. v Pac. Bell Tel. Co.* (2002, ND Cal) 228 F Supp 2d 1086.

...

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TITLE 47. TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS
 CHAPTER 5. WIRE OR RADIO COMMUNICATION
 COMMON CARRIERS
 DEVELOPMENT OF COMPETITIVE MARKETS

=1; GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

47 USCS § 252 (2003)

§ 252. Procedures for negotiation, arbitration, and approval of agreements

NOTES:

... issue on basis that OSS is network element to be made available to new entrants on unbundled basis according to 47 CFR § 15.319, because Supreme Court recently vacated § 15.319 and whether OSS can be considered unbundled network element is now in doubt. *US WEST Communs., Inc. v Minnesota PUC (1999, DC Minn) 55 F Supp 2d 968*, motion gr, in part, motion den, in part, ...

... GTE Fla., Inc. (2000, ND Fla) 123 F Supp 2d 1318.

Court approved California Public Utilities Commission's decisions as to common cost of incumbent local exchange carrier's leasing unbundled network elements to competitive local exchange carriers to exclude retail service costs. AT&T Communs. of Cal., Inc. v Pac. Bell Tel. Co. (2002, ND Cal) 228 F Supp 2d 1086.

...

... issue on basis that OSS is network element to be made available to new entrants on unbundled basis according to 47 CFR § 15.319, because Supreme Court recently vacated § 15.319 and whether OSS can be considered unbundled network element is now in doubt. *US WEST Communs., Inc. v Minnesota PUC (1999, DC Minn) 55 F Supp 2d 968*, motion gr, in part, motion den, in part, ...

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TITLE 47. TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS
CHAPTER 5. WIRE OR RADIO COMMUNICATION
COMMON CARRIERS
SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

=1; GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

47 USCS § 271 (2003)

§ 271. Bell operating company entry into interLATA services

NOTES:

... ILEC's) application under 47 USCS § 271 to sell long-distance service to customers in region for which they were dominant local-service providers was not arbitrary and capricious where (1) because active review of unbundled network elements (UNE) prices was taking place it was perfectly reasonable for FCC to review UNE rates that were adopted by state agency in Massachusetts under same deferential standard as it used in evaluating rates ...

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CHAPTER 5. WIRE OR RADIO COMMUNICATION
PROCEDURAL AND ADMINISTRATIVE PROVISIONS

=1; GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

47 USCS § 401 (2003)

§ 401. Enforcement provisions

NOTES:

... 745 F Supp 1450.

Under 47 USCS § 401(b), competitive local exchange carrier (CLEC) could not obtain enforcement order against incumbent local exchange carrier based on unbundled network elements remand order that declined to specify concrete requirements as to manner and type of technical information that was required to be made available to CLECs, since matter required initial determination and input from state public service commissions that had been delegated ...

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PROCEDURAL AND ADMINISTRATIVE PROVISIONS

=1; GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

47 USCS § 402 (2003)

§ 402. Judicial review of Commission's orders and decisions

NOTES:

... 372, *affd without op* (2000, CA3 Pa) 213 F3d 629.

Court approved California Public Utilities Commission's decisions as to common cost of incumbent local exchange carrier's (ILEC's) leasing unbundled network elements to competitive local exchange carriers to exclude risk adder, holding that to extent that ILEC was arguing that Federal Communications Commission's rules, as set forth in *In re Matter of Implementation of Local Competition Provisions* ...



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3874/F1

MDK:kmg:pg

(P2)

O-NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Today
4PM

1

AN ACT *to create* 196.50 (2) (i) of the statutes; **relating to:** petitions by certain telecommunications utilities regarding unbundled network elements and services.

2
3

Analysis by the Legislative Reference Bureau

This bill creates deadlines for the Public Service Commission (PSC) to make decisions on petitions filed by certain telephone companies for a determination of rates or costs of unbundled network elements or services. The deadlines apply to petitions filed by companies that are certified by the PSC as "telecommunications utilities," but not those companies that are certified by the PSC as "alternative telecommunications utilities." Under federal law, the telecommunications utilities may be required to provide unbundled network elements ~~and services~~ to alternative telecommunications utilities that compete with the telecommunications utilities. In general, "unbundled network elements" and services refer to the facilities and services of a telecommunications utility that a competitor needs to provide local telephone service.

Under this bill, if a telecommunications utility files a petition with the PSC on or after the effective date of the bill to determine the rates or costs of unbundled network elements or services under federal or state law, the PSC must enter a final decision on the petition no later than 180 days after the petition is filed. For such a petition that is pending with the PSC on the effective date of the bill, the PSC must enter a decision no later than 180 days after the effective date of the bill. If the PSC fails to comply with these deadlines, the telecommunications utility may commence an action in court for an order finding that the PSC has violated the bill's

→ refers

requirements and requiring the PSC to enter a decision on the petition no later than 45 days after the court's order.

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

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2 196.50 (2) (i) ^e If a telecommunications utility certified under this subsection
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4 or unbundled services under federal or state law, the commission shall complete the
5 proceedings and enter a final decision on the petition no later than 180 days after the
6 petition is filed with the commission, except that if such a petition is pending with ^{the}
7 commission on the effective date of this ^{Paragraph} ~~subdivision~~ [revisor inserts date], the
8 commission shall complete the proceedings and enter a final decision on the petition
9 no later than 180 days after the effective date of this ^{Paragraph} ~~subdivision~~ [revisor inserts
10 date].

11 2. If the commission fails to complete proceedings and enter a final decision as
12 required under subd. 1., the telecommunications utility that filed the petition may
13 commence an action seeking a court order finding the commission in violation of
14 subd. 1. If the court finds the commission in violation of subd. 1., the court shall order

1 the commission to complete the proceedings and enter a final decision on the petition
2 no later than 45 days after the court enters its order.

3 3. In an action commenced under subd. 2., the court shall issue a decision no
4 later than 10 days after the filing of the summons and complaint and proof of service
5 of the summons and complaint upon the commission, unless a party demonstrates
6 good cause for extension of this period. In any event, the court shall issue a decision
7 within 30 days after those filings are complete. If a party appeals the court's decision,
8 the court of appeals shall grant precedence to the appeal over all other matters not
9 accorded similar precedence by law.

10

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3874/P2dn

MDK: *King*

Rep. Gard:

This version makes the changes ^{that} you requested.

Note also that David Lovell of ^{the} Legislative Council raised a question regarding the meaning of unbundled service. Federal law refers to unbundled network elements, but does not refer to unbundled service. State law refers to unbundled service elements (see s. 196.204 (3) and (6) (a) 2., stats.), but makes only one reference to unbundled service (see the definition of "access service" at s. 196.01 (1b), stats.). As a result, the meaning of unbundled service is not clear. You may want to clarify the meaning of the term.

Mark D. Kunkel
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3874/P2dn
MDK:kmg:rs

December 19, 2003

Rep. Gard:

This version makes the changes that you requested.

Note also that David Lovell of the Legislative Council raised a question regarding the meaning of unbundled service. Federal law refers to unbundled network elements, but does not refer to unbundled service. State law refers to unbundled service elements (see s. 196.204 (3) and (6) (a) 2., stats.), but makes only one reference to unbundled service (see the definition of "access service" at s. 196.01 (1b), stats.). As a result, the meaning of unbundled service is not clear. You may want to clarify the meaning of the term.

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Kunkel, Mark

From: Nowak, Ellen
Sent: Monday, January 05, 2004 12:52 PM
To: 'mark.kunkel@legisl.state.wi.us'
Cc: Hanaman, Cathlene; Rose, Laura; Hinz, Daryl
Subject: change to LRB 3874/P2

Hi Mark:

Please make the following change to the proposal:
Line 4 should read:

"or unbundled service elements under federal or state law, the commission shall complete"

Tomorrow
TUES
1/6
NOON

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RM
has
been
seen

1 AN ACT to create 196.50 (2) (i) of the statutes; relating to: petitions by certain
2 telecommunications utilities regarding unbundled network ^{or service} elements ~~and~~
3 ~~services.~~

or service

(A)

Analysis by the Legislative Reference Bureau

This bill creates deadlines for the Public Service Commission (PSC) to make decisions on petitions filed by certain telephone companies for a determination of rates or costs of unbundled network elements ^{or services?} The deadlines apply to petitions filed by companies that are certified by the PSC as "telecommunications utilities," but not those companies that are certified by the PSC as "alternative telecommunications utilities." Under federal law, the telecommunications utilities may be required to provide unbundled network elements to alternative telecommunications utilities that compete with the telecommunications utilities. In general, "unbundled network elements" refers to the facilities of a telecommunications utility that a competitor needs to provide local telephone service.

Under this bill, if a telecommunications utility files a petition with the PSC on or after the effective date of the bill to determine the rates or costs of unbundled network elements ~~or services~~ under federal or state law, the PSC must enter a final decision on the petition no later than 180 days after the petition is filed. For such a petition that is pending with the PSC on the effective date of the bill, the PSC must enter a decision no later than 180 days after the effective date of the bill.

The bill's requirements also apply to petitions ^{Filed with the PSC} regarding rates or costs of unbundled service elements under state or federal law.

(8) PROHIBITIONS DURING PERIODS OF SUSPENSION OR REVOCATION. (a) Any person who has had a license or privilege under this chapter revoked or suspended and who engages in the activity authorized by the license or in the privilege during the period of revocation or suspension is subject to the following penalties, in addition to any other penalty imposed for failure to have a license:

1. For the first conviction, the person shall forfeit not less than \$300 nor more than \$500.
2. If the number of convictions in a 5-year period equals 2 or more, the person shall be fined not less than \$500 nor more than \$1,000.

(b) The 5-year period under par. (a) 2. shall be measured from the dates of the violations that resulted in the convictions.

(9) PARTIES TO A VIOLATION. (a) Whoever is concerned in the commission of a violation of this chapter is a principal and may be charged with and convicted of the violation of this chapter although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation of this chapter.

(b) A person is concerned in the commission of the violation of this chapter if the person does any of the following:

1. Directly commits the violation of this chapter.
2. Aids and abets the commission of the violation of this chapter.
3. Is a party to a conspiracy with another to commit the violation of this chapter or advises, hires, or counsels or otherwise procures another to commit it.

History: 2001 a. 56, 105.

169.46 Natural resources assessments and restitution payments. (1) NATURAL RESOURCES ASSESSMENTS. (a) If a court imposes a fine or forfeiture for a violation of this chapter or a rule promulgated under this chapter, the court shall impose a natural resources assessment equal to 75% of the amount of the fine or forfeiture.

(b) If a fine or forfeiture is suspended in whole or in part, the natural resources assessment shall be reduced in proportion to the suspension.

(c) If any deposit is made for an offense to which this subsection applies, the person making the deposit shall also deposit a suf-

ficient amount to include the natural resources assessment prescribed in this subsection. If the deposit is forfeited, the amount of the natural resources assessment shall be transmitted to the state treasurer under par. (d). If the deposit is returned, the natural resources assessment shall also be returned.

(d) The clerk of the court shall collect and transmit to the county treasurer the natural resources assessment and other amounts required under s. 59.40 (2) (m). The county treasurer shall then make payment to the state treasurer as provided in s. 59.25 (3) (f) 2. The state treasurer shall deposit the amount of the natural resources assessment in the conservation fund.

(e) All moneys collected from natural resources assessments shall be deposited in the conservation fund and credited to the appropriation under s. 20.370 (3) (mu).

(2) NATURAL RESOURCES RESTITUTION PAYMENTS. (a) If a court imposes a fine or forfeiture for a violation of this chapter for failure to obtain a license required under this chapter, the court shall impose a natural resources restitution payment equal to the amount of the fee for the license that was required and should have been obtained.

(b) If a fine or forfeiture is suspended in whole or in part, the natural resources restitution payment shall be reduced in proportion to the suspension unless the court directs otherwise.

(c) If any deposit is made for an offense to which this subsection applies, the person making the deposit shall also deposit a sufficient amount to include the natural resources restitution payment prescribed in this subsection. If the deposit is forfeited, the amount of the natural resources restitution payment shall be transmitted to the state treasurer under par. (d). If the deposit is returned, the natural resources restitution payment shall also be returned.

(d) The clerk of the court shall collect and transmit to the county treasurer the natural resources restitution payment and other amounts required under s. 59.40 (2) (m). The county treasurer shall then make payment to the state treasurer as provided in s. 59.25 (3) (f) 2. The state treasurer shall deposit the amount of the natural resources restitution payment in the conservation fund.

(e) All moneys collected from natural resources restitution payments shall be deposited in the conservation fund and credited to the appropriation account under s. 20.370 (3) (mu).

History: 2001 a. 56.

Northrop, Lori

From: Nowak, Ellen
Sent: Monday, January 05, 2004 4:24 PM
To: LRB.Legal
Subject: Draft review: LRB 03-3874/1 Topic: Petitions for the PSC to determine rates for unbundled network elements or services

It has been requested by <Nowak, Ellen> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3874/1 Topic: Petitions for the PSC to determine rates for unbundled network elements or services