

**2005 DRAFTING REQUEST**

**Bill**

Received: **01/19/2005**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Walker**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - telco**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Walker, BB0445 -

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**Topic:**

Telecommunications late fees

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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>
/?				_____			State
/P1	mkunkel 01/23/2005	wjackson 01/24/2005	chaugen 01/24/2005	_____	Inorthro 01/24/2005		

FE Sent For:

**<END>**

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/?	mkunkel	/pl WLj 1/24	Oh 1-24	Oh 1-24 1/24			

FE Sent For:

<END>

2003-05 Budget Bill Statutory Language Drafting Request  
January 18, 2005

- Topic: Telecommunications Late Fees
- Tracking Code: BB0445
- SBO team: Environmental and Commercial Resources
- SBO analyst: William D. Walker
  - Phone: 266-7973
  - Email: william.walker@doa.state.wi.us
- Agency acronym: PSC
- Agency number: 155



Allow the commission to authorize telecommunications businesses to charge late fees to customers at rates set by the commission.

(Emailed  
to Drafter)

## Kunkel, Mark

---

**From:** Walker, William - DOA  
**Sent:** Tuesday, January 18, 2005 3:18 PM  
**To:** Kunkel, Mark  
**Cc:** Nelson, Linda; Merry-Mason, Monica  
**Subject:** Telecomm Late Fees

Mark: Here is the request memo I called about. The paper copy plus our tracking number will arrive later.

I would be glad to seek additional guidance from the Governor's office on this item. Let me know the right questions to ask.

Thanks and sorry for the late notice.



Telecomm Late  
Fees.doc

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January 18, 2005

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- SBO team: Environmental and Commercial Resources
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  - Phone: 266-7973
  - Email: [william.walker@doa.state.wi.us](mailto:william.walker@doa.state.wi.us)
- Agency acronym: PSC
- Agency number: 155

Allow the commission to authorize telecommunications businesses to charge late fees to customers at rates set by the commission.

## Kunkel, Mark

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**To:** Walker, William - DOA  
**Subject:** RE: Telecomm Late Fees

Bill:

The PSC has promulgated a rule that prohibits telecommunications utilities from charging late payment fees. See Wis. Admin. Code s. PSC 165.05 (1). I'm not sure about the exact statutory authority for the PSC to promulgate the rule, but it might be s. 196.219 (3) (L), stats., which seems to require a telecommunications utility to comply with standards established by the PSC regarding, among other things, "billing and collection of amounts owed for services provided or to be provided."

Can you clarify that the above rule is the reason for the request? Or am I barking up the wrong tree entirely?

-- Mark

PS As a confusing aside, note that, despite the above rule, SBC/Ameritech has filed a tariff with the PSC that says the the company will impose late payment charges. Here's the language (from AT&T Tariff 20, found on SBC's website):

A late payment charge of 1.0% per month shall apply to amounts shown on a monthly bill which remain unpaid 20 days after the bill date, except that the charge is not applicable as specified below.

1. The late payment charge does not apply to:

- Amounts which are in dispute at the time the late payment charge would otherwise be applied.
- Federal excise tax or any other taxes levied by law directly on the customer.
- Amounts billed by the Company for other entities for which the charge is not authorized by those entities' appropriate tariffs or contracts, other than Interexchange Carrier Services for which the Telephone Company, acting as the principal Billing and Collection Agent, purchases the accounts receivable in advance of subscriber billing.

2. Credit, deposit and collection procedures outlined elsewhere in this tariff are not waived or foreclosed by the application of a late payment charge.

Source: [http://www.sbc.com/Large-Files/RIMS/Wisconsin/Tariff\\_No.\\_20/wi200202.pdf](http://www.sbc.com/Large-Files/RIMS/Wisconsin/Tariff_No._20/wi200202.pdf) (page 22)

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I would be glad to seek additional guidance from the Governor's office on this item. Let me know the right questions to ask.

Thanks and sorry for the late notice.

<< File: Telecomm Late Fees.doc >>

## Kunkel, Mark

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**From:** Walker, William - DOA  
**Sent:** Friday, January 21, 2005 5:34 PM  
**To:** Kunkel, Mark  
**Cc:** Henderson, Patrick - Office of Governor Jim Doyle; Grinde, Kirsten  
**Subject:** FW: Telecomm Late Fees

Mark:

Please do NOT include the sunset of the 5% to the state provision. Thanks!

All the rest is fine.

Thanks!

-----Original Message-----

**From:** Henderson, Patrick - Office of Governor Jim Doyle  
**Sent:** Friday, January 21, 2005 4:53 PM  
**To:** Walker, William - DOA  
**Cc:** Grinde, Kirsten; Ebert, Dan PSC  
**Subject:** RE: Telecomm Late Fees

Bill,

this language looks good. I see no reason why we should sunset the provision to deposit funds in the gifts and grants appropriation.

Patrick Henderson  
Office of Governor Jim Doyle  
Legislative Director  
(608) 266-1338

-----Original Message-----

**From:** Walker, William - DOA  
**Sent:** Friday, January 21, 2005 2:52 PM  
**To:** Kunkel, Mark  
**Cc:** Grinde, Kirsten; Henderson, Patrick - Office of Governor Jim Doyle; Ebert, Dan PSC  
**Subject:** Telecomm Late Fees  
**Importance:** High

Mark:

Attached is draft language for the telecomm late fees draft. Obviously rework it to improve style, etc.

Also, if you agree, just deposit the 5% of late fees into s. 20.155 (1) (lm) [Consumer education and awareness] rather than create a new appropriation.

**Here is how I interpret the intent of the draft language.**

**DAN & PAT: PLEASE CONFIRM THIS IS WHAT YOU WANT DRAFTED** (to me &/or Kirsten).

- Prohibit a telecommunications utility to impose a late fee on a retail customer except allow:
  - Up to 1.5% per month on the late balance
  - For nonresidential customers, allow a minimum late fee of up to \$5 (even if 1.5% is less than \$5)
- Allow PSC to authorize higher late fees if consistent with current standards for reasonable and just charges
- Prohibit PSC from regulating late fees except to enforce the above or allow higher late fees

- Require telecommunications utilities to pay 5% of late fees to the PSC for use in consumer education [NOTE: not to the state general fund for general state use]
- Sunset the pay-to-PSC provision after one-year. [Why?!]

Bill Walker  
State Budget Office  
266-7973

-----Original Message-----

From: Ebert, Dan PSC [mailto:Dan.Ebert@psc.state.wi.us]  
Sent: Friday, January 21, 2005 2:11 PM  
To: Walker, William - DOA  
Cc: Henderson, Patrick - Office of Governor Jim Doyle  
Subject: FW: Per Our Conversation

Bill,

Here is the draft. A little more complicated than we discussed, but very straightforward. Let me know if you need anything else.

Dan << File: Late Payment Legislative V2 clean.DOC >>

196.219(3)(p) is created to read as follows:

(p) Impose any charge on a retail consumer for nonpayment when due greater than the charges authorized by this paragraph. With respect to such charges:

207  
NCLM

1. Notwithstanding s. 138.05, a telecommunications utility may impose upon retail consumers a charge for nonpayment when due at a rate not more than \$1.50 upon \$100 for each month computed upon the declining principal balance of any amounts not paid when due.

2. A telecommunications utility may impose a charge of not more than \$5 upon nonresidential retail consumers for nonpayment when due in lieu of the charge authorized in subd. 2 in any month in which the charge for that month as calculated under subd. 2 would be less than \$5.

3. The commission shall authorize a telecommunications utility to impose charges upon retail consumers for nonpayment when due that are higher than the charges authorized in this paragraph if the commission determines that the proposed charges are consistent with the factors in s. 196.03 (6).

4. The commission may not have jurisdiction to regulate a telecommunication utility's imposition of charges for non-payment when due except as may be necessary to enforce the requirements of this paragraph or to authorize a higher charge pursuant to subd. 3.

Section 196.219(6) of the statutes is created to read as follows:

(6) A telecommunications utility imposing the charge for non-payment authorized under s. 196.219(3)(p) shall pay to the state five (5) percent of such charges collected from nonresidential retail consumers, on a semi-annual basis, within sixty (60) days of the conclusion of each semi-annual period that begins with the first day a telecommunications utility is authorized to impose such charge under s. 196.219(3)(p). This subsection shall not apply after [revisor inserts a date that is one year after effective date of 2005 budget act].

Section 20.155(1)(s) of the statutes is created to read as follows:

Gifts for consumer education. All monies received from a telecommunications utility under s. 196.219(6) for consumer education purposes as determined by the commission.



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1786/P1

MDK:.....

WLj

NOTE

DOA:.....Walker, BB0445 - Telecommunications late fees ✓

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION ✓

TODAY  
please

DO NOT GEN

1 AN ACT ...; relating to: the budget. ✓

*Analysis by the Legislative Reference Bureau*

STATE GOVERNMENT ✓

PUBLIC UTILITY REGULATION ✓

This bill establishes maximum late payment charges that telecommunications utilities are allowed to charge retail consumers. Under current law, a telecommunications utility is an entity that provides local calling service to consumers, except for entities that provide such service on a resale basis.

With two exceptions, the bill prohibits a telecommunications utility from imposing on retail consumers a late payment charge at a rate greater than 1.5% per month computed upon the declining principal balance of any amount that is not paid when due. The first exception applies to retail consumers that are not residential consumers. For any month in which the maximum late payment charge otherwise allowed under the bill is less than \$5, the bill allows the telecommunications utility to impose a late payment charge of \$5 for that month. Under the bill's second exception, the PSC may allow a telecommunications utility to impose a late payment charge that is greater than that otherwise allowed under the bill, but only if the PSC determines that the greater charge is consistent with factors specified under current law for determining whether a charge is just and reasonable.

The bill also requires telecommunications utilities that impose late payment charges on consumers to pay to the PSC, on a semiannual basis, 5% of the charges they collect from consumers that are not residential consumers. The PSC must use the money for consumer education purposes as determined by the PSC.

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. 20.155 (1) (Ls) of the statutes is created to read:

2           20.155 (1) (Ls) *Late payment charges.* All moneys received from  
3 telecommunications utilities under s. 196.219 (3m) (b) for consumer education  
4 purposes as determined by the commission.

5           SECTION 2. 196.219 (3m) of the statutes is created to read:

6           196.219 (3m) LATE PAYMENT CHARGES (a) *Maximum allowed.* 1. Except as  
7 provided in subds. 1, 2, and 3, a telecommunications utility may not impose a late  
8 payment charge on a retail consumer at a rate that exceeds \$1.50 upon \$100 for each  
9 month computed upon the declining principal balance of any amount that is not paid  
10 when due.

11           2. Except as provided in subd. 3, if the maximum late payment charge for any  
12 month that is allowed under subd. 1. is less than \$5 for that month, the  
13 telecommunications utility may impose a late payment charge that does not exceed  
14 \$5 for that month. This subdivision does not apply to residential retail consumers.

15           3. The commission may allow a telecommunications utility to impose a late  
16 payment charge at a rate that is greater than that allowed under subd. 1. or 2. if the  
17 commission determines that the greater amount is consistent with the factors  
18 specified in s. 196.03 (6).

19           (b) *Payments to commission.* 1. A telecommunications utility that imposes late  
20 payment charges that are subject to par. (a) shall pay to the commission, on a

1 semiannual basis, 50% of such charges that are collected from nonresidential retail  
2 consumers.

3 2. The payments required under subd. 1. are due to the commission no later  
4 than 60 days after the conclusion of a semiannual period.

5 (c) *Commission jurisdiction.* The commission does not have jurisdiction over  
6 late payment charges except as may be necessary to enforce the requirements of this  
7 subsection.

8 **SECTION 9339. Initial applicability; public service commission.**

9 (1) LATE PAYMENT CHARGES. The treatment of section 196.219 (3m) (b) 2. of the  
10 statutes first applies at the conclusion of the semiannual period that begins on the  
11 effective date of this subsection.

12

(END)

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

LRB-1786/P1dn

MDK:.....

WJ

Bill Walker:

Please note the following about this draft:

1. The instructions include the phrase, "Notwithstanding s. 138.05" However, this phrase is not necessary because s. 138.05 (1) (intro.), stats., provides: "Except as authorized by other statutes...."

2. I assume you want to limit the bill to telecommunications utilities. Therefore, instead of putting the prohibition in s. 196.219 (3), stats., which applies to certain telecommunications providers, as well as telecommunications utilities, I put the prohibition in proposed s. 196.219 (3m), stats.

3. Note that s. 196.219 (4), (4m), and (5), stats., applies to violations of proposed s. 196.219 (3m). (These provisions deal with enforcement, civil actions, and alternate dispute resolution.) Is that okay?

4. Is the reference to computation upon the declining principal balance clear? Such a reference is used without definition in other statutes, but I'm not entirely sure of its meaning. If there would be some confusion in the regulated community, you might want to elaborate on its meaning.

5. I changed the title of the appropriation because the payments to the PSC are not gifts.

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

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

LRB-1786/P1dn  
MDK:wlj:ch

January 24, 2005

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12 (END)