

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2007 SENATE BILL 285**

February 22, 2008 – Offered by COMMITTEE ON COMMERCE, UTILITIES AND RAIL.

1     **AN ACT** *to repeal* 196.203 (3) (d), 196.50 (1) (b) 1. and 196.50 (1) (b) 2.; *to*  
2     *renumber* 196.50 (1) (b) 3.; *to renumber and amend* 196.203 (1), 196.203 (2)  
3     and 196.52 (5) (b); *to amend* 196.07 (1), 196.194 (1), 196.203 (3) (a), 196.203 (3)  
4     (e) 1. (intro.), 196.203 (5), 196.219 (1) (b), 196.219 (2) (a) and 196.219 (3) (g); and  
5     *to create* 196.203 (1d), 196.203 (2) (b) and (c), 196.204 (8), 196.213 (3), 196.52  
6     (5) (b) 1. and 196.52 (5) (b) 3. and 4. of the statutes; **relating to:** regulation of  
7     certain alternative telecommunications utilities and telecommunications  
8     utilities that offer bundled or packaged services, and public utility accounting  
9     filing requirements.

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

10     **SECTION 1.** 196.07 (1) of the statutes is amended to read:  
11     196.07 (1) Each public utility shall close its accounts annually on December 31  
12     and promptly prepare a balance sheet of that date. On or before the following April

1 May 1 every public utility shall file with the commission the balance sheet together  
2 with any other information the commission prescribes, verified by an officer of the  
3 public utility. The commission, for good cause shown, may extend the time for filing  
4 the balance sheet and prescribed information.

5 **SECTION 2.** 196.194 (1) of the statutes is amended to read:

6 196.194 (1) TELECOMMUNICATIONS UTILITIES. ~~Except as provided in this~~  
7 ~~subsection, nothing~~ Nothing in this chapter prohibits the commission from  
8 approving the filing of a tariff which permits a telecommunications utility to enter  
9 into an individual contract with an individual customer ~~if substitute~~  
10 ~~telecommunications services are available to customers or potential customers of the~~  
11 ~~telecommunications utility and the absence of such a tariff will cause the~~  
12 ~~telecommunications utility to be disadvantaged in competing for business. A tariff~~  
13 ~~filed under this subsection shall include the condition that any such contract shall~~  
14 ~~be compensatory as determined under s. 196.204 (5) and (6). The tariff shall include~~  
15 ~~any other condition and procedure required by the commission in the public interest.~~  
16 ~~Within 20 days after a contract authorized under this subsection or an amendment~~  
17 ~~to such a contract has been executed, the telecommunications utility shall submit to~~  
18 ~~the commission written notice of the general nature of the contract and the parties~~  
19 ~~to the contract. Upon request, the commission shall inform a person, or direct that~~  
20 ~~the person be informed, that notice has been received by the commission of execution~~  
21 ~~of a contract under this subsection. Within 6 months after receiving substantial~~  
22 ~~evidence that a contract may be noncompensatory, or upon its own motion, the~~  
23 ~~commission shall investigate and determine whether the contract is compensatory.~~  
24 ~~If the commission determines that the contract is noncompensatory, the commission~~  
25 ~~may make appropriate adjustments in the rates or tariffs of the telecommunications~~

1 utility that has entered into the contract, in addition to other remedies under this  
2 chapter. The dollar amount of the adjustment may not be less than the amount by  
3 which the contract was found to be noncompensatory.

4 **SECTION 3.** 196.203 (1) of the statutes is renumbered 196.203 (1g) and amended  
5 to read:

6 196.203 **(1g)** Alternative telecommunications utilities are exempt from all  
7 provisions of ch. 201 and this chapter, except as provided in this section and except  
8 that an alternative telecommunications utility that is a local government  
9 telecommunications utility, as defined in s. 196.204 (5) (ag) 1., is subject to s. 196.204  
10 (5).

11 **SECTION 4.** 196.203 (1d) of the statutes is created to read:

12 196.203 **(1d)** In this section, “local government telecommunications utility”  
13 has the meaning given in s. 196.204 (5) (ag) 1.

14 **SECTION 5.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and  
15 amended to read:

16 196.203 **(2)** (a) No person may commence providing service as an alternative  
17 telecommunications utility unless the person petitions for and the commission issues  
18 a ~~determination~~ certification that the person is an alternative telecommunications  
19 utility.

20 **(6)** The commission shall maintain information on authorized certified  
21 alternative telecommunications utilities and on applicants for alternative  
22 telecommunications utility status certification and make that information available  
23 to any person, upon request.

24 **SECTION 6.** 196.203 (2) (b) and (c) of the statutes are created to read:

1           196.203 **(2)** (b) Except for an alternative telecommunications utility that is a  
2 local government telecommunications utility, certification as an alternative  
3 telecommunications utility shall be on a statewide basis and any certification issued  
4 by the commission before the effective date of this paragraph .... [revisor inserts  
5 date], to an alternative telecommunications utility that is not a local government  
6 telecommunications utility is considered amended to be a statewide certification.  
7 This paragraph does not alter any conditions of a certification issued before the  
8 effective date of this paragraph .... [revisor inserts date], except for geographic scope.

9           (c) The commission may deny a petition for certification as an alternative  
10 telecommunications utility described in s. 196.01 (1d) (f) if the commission finds that  
11 the petitioner does not have the financial, managerial, or technical capabilities to  
12 provide its proposed services or to comply with conditions that the commission is  
13 authorized to impose under sub. (3) (a).

14           **SECTION 7.** 196.203 (3) (a) of the statutes is amended to read:

15           196.203 **(3)** (a) In response to a petition from any interested person, or upon  
16 its own motion, the commission shall determine whether the public interest requires  
17 that any provision of ch. 201 or this chapter be imposed on a person providing or  
18 proposing to provide service as an alternative telecommunications utility in a  
19 relevant market. In making this determination, the commission may consider  
20 factors including the quality of service, customer complaints, concerns about the  
21 effect on customers of local exchange telecommunications utilities and the extent to  
22 which similar services are available from alternative sources. The commission may  
23 impose a condition under this paragraph on the certification of an alternative  
24 telecommunications utility described in s. 196.01 (1d) (f) only if the condition is  
25 consistent with 47 USC 253 (b).

1           **SECTION 8.** 196.203 (3) (d) of the statutes, as affected by 2007 Wisconsin Act 42,  
2 is repealed.

3           **SECTION 9.** 196.203 (3) (e) 1. (intro.) of the statutes, as affected by 2007  
4 Wisconsin Act 42, is amended to read:

5           196.203 **(3)** (e) 1. (intro.) If a provider of cable service files a petition under par.  
6 (a) for alternative telecommunications status to offer local exchange service, as  
7 defined in s. ~~196.50 (1) (b) 1.~~ 196.219 (1) (b), in a geographical area served by a  
8 telecommunications utility with less than 50,000 access lines in use in this state on  
9 September 1, 1994, or at any time thereafter, the commission may not deny the  
10 petition as not being in the public interest and shall do any of the following:

11           **SECTION 10.** 196.203 (5) of the statutes is amended to read:

12           196.203 **(5)** The commission may establish a reasonable fee schedule and may  
13 assess an alternative telecommunications utility to cover the cost of making a  
14 certification or other determination under this section.

15           **SECTION 11.** 196.204 (8) of the statutes is created to read:

16           196.204 **(8)** (a) In this subsection:

17           1. “Bundle” means a multiservice retail offering by a telecommunications  
18 utility that combines one or more telecommunications services provided by the  
19 telecommunications utility with one or more services provided by an affiliated  
20 interest, as defined in s. 196.52 (1) (a), of the telecommunications utility or by an  
21 unaffiliated 3rd party.

22           2. “Package” means a multiservice retail offering by a telecommunications  
23 utility that combines a telecommunications service provided by the  
24 telecommunications utility with one or more other telecommunications or other  
25 services provided by the telecommunications utility.

1 (b) This section does not apply to a telecommunications utility that offers  
2 services in a bundle or package.

3 **SECTION 12.** 196.213 (3) of the statutes is created to read:

4 196.213 (3) This section does not apply to a rate increase for a bundle, as  
5 defined in s. 196.204 (8) (a) 1., or package, as defined in s. 196.204 (8) (a) 2.

6 **SECTION 13.** 196.219 (1) (b) of the statutes is amended to read:

7 196.219 (1) (b) “Local exchange service” ~~has the meaning given in s. 196.50 (1)~~  
8 ~~(b) 1. includes access service, basic local exchange service, and business access line~~  
9 and usage service within a local calling area.

10 **SECTION 14.** 196.219 (2) (a) of the statutes is amended to read:

11 196.219 (2) (a) Notwithstanding any exemptions identified in this chapter  
12 except sub. (3) (g) and s. 196.202, a telecommunications utility or provider shall  
13 provide protection to its consumers under this section unless exempted in whole or  
14 in part by rule or order of the commission under this section. The commission shall  
15 promulgate rules that identify the conditions under which provisions of this section  
16 may be suspended.

17 **SECTION 15.** 196.219 (3) (g) of the statutes is amended to read:

18 196.219 (3) (g) Provide services, products or facilities in violation of s. 196.204.  
19 This paragraph does not apply to a telecommunications utility that offers services  
20 in a bundle, as defined in s. 196.204 (8) (a) 1., or package, as defined in s. 196.204 (8)  
21 (a) 2.

22 **SECTION 16.** 196.50 (1) (b) 1. of the statutes is repealed.

23 **SECTION 17.** 196.50 (1) (b) 2. of the statutes, as affected by 2007 Wisconsin Act  
24 42, is repealed.

25 **SECTION 18.** 196.50 (1) (b) 3. of the statutes is renumbered 196.50 (1) (bm).

1           **SECTION 19.** 196.52 (5) (b) of the statutes is renumbered 196.52 (5) (b) 2. and  
2 amended to read:

3           196.52 **(5)** (b) 2. For a telecommunications utilities utility that does not offer  
4 a bundle or package, the commission shall have supervisory jurisdiction over the  
5 terms and conditions of contracts and arrangements under this section as necessary  
6 to enforce ss. 196.204 and 196.219.

7           **SECTION 20.** 196.52 (5) (b) 1. of the statutes is created to read:

8           196.52 **(5)** (b) 1. In this paragraph:

9           a. “Bundle” has the meaning given in s. 196.204 (8) (a) 1.

10          b. “Package” has the meaning given in s. 196.204 (8) (a) 2.

11          **SECTION 21.** 196.52 (5) (b) 3. and 4. of the statutes are created to read:

12          196.52 **(5)** (b) 3. Except for subd. 4., this section does not apply to a  
13 telecommunications utility that offers a bundle or package, and except that such a  
14 telecommunications utility shall provide a copy of any contract or arrangement with  
15 an affiliated interest that is necessary for an investigation of a violation of s. 196.219,  
16 other than s. 196.219 (3) (g), and has been requested by the commission or a party  
17 to a complaint proceeding.

18          4. Any contract or arrangement between a telecommunications utility and an  
19 affiliated interest shall specify the services furnished, and the properties, rights, or  
20 things purchased, sold, leased, or exchanged, under the contract or arrangement,  
21 and shall specify the rates, terms, and conditions for such furnishing, purchase, sale,  
22 lease, or exchange. A telecommunications utility shall retain a copy of any contract  
23 or arrangement with an affiliated interest for 3 years after the termination date of  
24 the contract or arrangement.

25          **SECTION 22. Nonstatutory provisions.**

