

Kunkel, Mark

From: Evenson, Gary PSC [Gary.Evenson@psc.state.wi.us]
Sent: Friday, February 15, 2008 2:57 PM
To: Lovell, David; Brian Rybarik; Kunkel, Mark; Linden, Nick - PSC; Varda, Mike - PSC
Cc: Ruesch, Kristin; Hodgson, Amber; Callisto, Eric - PSC; bill.esbeck@wsta.info
Subject: RE: Clarifying references to CLECs

Brian is in my office. He is ok with this change.

==+

Gary A. Evenson
 Administrator
 Telecommunications Division
 PSC of Wisconsin

From: Evenson, Gary PSC
Sent: Friday, February 15, 2008 1:46 PM
To: Lovell, David; Brian Rybarik; Kunkel, Mark; Linden, Nick PSC; Varda, Michael PSC
Cc: Ruesch, Kristin; Hodgson, Amber; Callisto, Eric PSC; bill.esbeck@wsta.info
Subject: RE: Clarifying references to CLECs

Re 196.203(2)(b) and (c)

When we discussed the statewide certification issue we exempted muni CLECs and a type of ATU called cable television telecommunications service provider.

We now think that this latter category should not be referenced.

So we now offer for your consideration:

203(2)(b). Certification of a person as a competitive local exchange carrier shall be on a statewide basis, except when a petition for certification is filed by a local government telecommunications utility.

(c) An existing certificate of an alternative telecommunications utilities granted under s. 196.01(1d)(f) before [revisor inserts effective date of act] and that authorized service as a competitive local exchange carrier, shall be deemed amended to a statewide certification. This provision does not alter any certificate limitations except geographical scope and does not apply to a local government telecommunications utility.

==+

Gary A. Evenson
 Administrator
 Telecommunications Division
 PSC of Wisconsin

Kunkel, Mark

From: Lovell, David
Sent: Friday, February 15, 2008 3:13 PM
To: Kunkel, Mark
Subject: Results of e-mail discussions today -- SB 285 sub.

Attachments: RE: Clarifying references to CLECs; RE: Issue 5 question: definition of bundle

These are the e-mails:



RE: Clarifying
references to C...



RE: Issue 5
question: definiti...

And this is the specific language arrived at:

203(2)(b). Certification of a person as a competitive local exchange carrier shall be on a statewide basis, except when a petition for certification is filed by a local government telecommunications utility.

(c) An existing certificate of an alternative telecommunications utilities granted under s. 196.01(1d)(f) before [revisor inserts effective date of act] and that authorized service as a competitive local exchange carrier, shall be deemed amended to a statewide certification. This provision does not alter any certificate limitations except geographical scope and does not apply to a local government telecommunications utility.

AND

"Bundle" means a retail offering by a telecommunications utility that combines one or more telecommunications services provided by the telecommunications utility with one or more services provided by an affiliate of the telecommunications utility or an unaffiliated third party.

"Package" means a retail offering by a telecommunications utility that combines a telecommunications service provided by the telecommunications utility with one or more telecommunications or other services provided by the telecommunications utility.

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

Kunkel, Mark

From: Evenson, Gary PSC [Gary.Evenson@psc.state.wi.us]
Sent: Friday, February 15, 2008 2:57 PM
To: Lovell, David; Brian Rybarik; Kunkel, Mark; Linden, Nick - PSC; Varda, Mike - PSC
Cc: Ruesch, Kristin; Hodgson, Amber; Callisto, Eric - PSC; bill.esbeck@wsta.info
Subject: RE: Clarifying references to CLECs

Brian is in my office. He is ok with this change.

==+==+==+==+==+==+==+==+==+==+==+==+==+==+==+==+

Gary A. Evenson
Administrator
Telecommunications Division
PSC of Wisconsin

From: Evenson, Gary PSC
Sent: Friday, February 15, 2008 1:46 PM
To: Lovell, David; Brian Rybarik; Kunkel, Mark; Linden, Nick PSC; Varda, Michael PSC
Cc: Ruesch, Kristin; Hodgson, Amber; Callisto, Eric PSC; bill.esbeck@wsta.info
Subject: RE: Clarifying references to CLECs

Re 196.203(2)(b) and (c)

When we discussed the statewide certification issue we exempted muni CLECs and a type of ATU called cable television telecommunications service provider.

We now think that this latter category should not be referenced.

So we now offer for your consideration:

203(2)(b). Certification of a person as a competitive local exchange carrier shall be on a statewide basis, except when a petition for certification is filed by a local government telecommunications utility.

(c) An existing certificate of an alternative telecommunications utilities granted under s. 196.01(1d)(f) before [revisor inserts effective date of act] and that authorized service as a competitive local exchange carrier, shall be deemed amended to a statewide certification. This provision does not alter any certificate limitations except geographical scope and does not apply to a local government telecommunications utility.

==+==+==+==+==+==+==+==+==+==+==+==+==+==+==+==+

Gary A. Evenson
Administrator
Telecommunications Division
PSC of Wisconsin

Kunkel, Mark

From: Evenson, Gary PSC [Gary.Evenson@psc.state.wi.us]
Sent: Friday, February 15, 2008 2:55 PM
To: Lovell, David; Brian J. Rybarik
Cc: Varda, Mike - PSC
Subject: RE: Issue 5 question: definition of bundle

David – Brian is in my office. HE is ok with this new definition.

==+==

Gary A. Evenson
Administrator
Telecommunications Division
PSC of Wisconsin

From: Lovell, David [mailto:David.Lovell@legis.wisconsin.gov]
Sent: Friday, February 15, 2008 2:05 PM
To: Brian J. Rybarik
Cc: Evenson, Gary PSC; Varda, Michael PSC
Subject: FW: Issue 5 question: definition of bundle

Brian,

I sent the following just to Gary & Mike to cut down on the number of e-mails people are being bombarded with. They are chewing on it now, so I'm sending it to you to chew on, too. It appears that the question is in which places in the two definitions the services referenced have to be telecommunications services and in which places they can be any service.

David

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

From: Lovell, David
Sent: Friday, February 15, 2008 1:52 PM
To: Evenson, Gary - PSC; Varda, Mike - PSC
Subject: FW: Issue 5 question: definition of bundle

Gary & Mike--

just to the two of you --

if Brian's understanding on the "packages" definition is yours, as well, I would change it as follows:

02/15/2008

"Bundle" means a retail offering by a telecommunications utility that combines one or more telecommunications services provided by the telecommunications utility with one or more services provided by an affiliate of the telecommunications utility or an unaffiliated third party.

"Package" means a retail offering by a telecommunications utility that combines a telecommunications service provided by the telecommunications utility with one or more telecommunications or other services provided by the telecommunications utility.

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

From: Brian Rybarik [mailto:brybarik@wsta.info]
Sent: Friday, February 15, 2008 1:46 PM
To: Lovell, David; Evenson, Gary - PSC; Kunkel, Mark; Ruesch, Kristin; Hodgson, Amber
Cc: Linden, Nick - PSC; Varda, Mike - PSC; Callisto, Eric - PSC; Brian J. Rybarik
Subject: RE: Issue 5 question: definition of bundle

I think the definition of bundle is fine from this end. My question on "package" is whether the intent is to allow the company to combine two "telecommunications services" in order to fit the definition. The way I read the definition, the other services could NOT be "telecommunications services" i.e., they would have to be "other" services.

Brian J. Rybarik
Legal Counsel and Manager of Regulatory Affairs
Wisconsin State Telecommunications Association
121 E. Wilson St., Suite 102
Madison, WI 53703
(608) 256-8866 ext. 23

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

From: Lovell, David [mailto:David.Lovell@legis.wisconsin.gov]
Sent: Friday, February 15, 2008 1:13 PM
To: Evenson, Gary - PSC; Kunkel, Mark; Ruesch, Kristin; Hodgson, Amber
Cc: Linden, Nick - PSC; Varda, Mike - PSC; Callisto, Eric - PSC; Brian J. Rybarik
Subject: RE: Issue 5 question: definition of bundle

This put the 2 definitions in parallel construction and I think captures the concepts of both:

"Bundle" means a retail offering by a telecommunications utility that combines one or more telecommunications services provided by the telecommunications utility with one or more services provided by an affiliate of the telecommunications utility or an unaffiliated third party.

"Package" means a retail offering by a telecommunications utility that combines a telecommunications service provided by the telecommunications utility with one or more other services provided by the telecommunications utility.

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

From: Evenson, Gary PSC [mailto:Gary.Evenson@psc.state.wi.us]
Sent: Friday, February 15, 2008 12:31 PM
To: Lovell, David; Kunkel, Mark; Ruesch, Kristin; Hodgson, Amber
Cc: Linden, Nick - PSC; Varda, Mike - PSC; Callisto, Eric - PSC; Brian J. Rybarik
Subject: RE: Issue 5 question: definition of bundle

How about:

"the combined retail offering by a telecommunications utility of two or more services in which a telecommunications utility offering is provided in conjunction with at least one offering furnished by a telecommunications utility affiliate or an unaffiliated third party."

==+==+==+==+==+==+==+==+==+==+==+==+==+==

Gary A. Evenson
Administrator
Telecommunications Division
PSC of Wisconsin

From: Lovell, David [mailto:David.Lovell@legis.wisconsin.gov]
Sent: Thursday, February 14, 2008 4:14 PM
To: Evenson, Gary PSC; Kunkel, Mark; Ruesch, Kristin; Hodgson, Amber
Cc: Linden, Nick PSC; Varda, Michael PSC; Callisto, Eric PSC; Brian J. Rybarik
Subject: RE: Issue 5 question: definition of bundle

In that case, the definition of "bundle" could be simplified to be
"the combined retail offering by a telecommunications utility of two or more services, at least one of which is furnished by an affiliate of the telecommunications utility or by another third party."

Does that accomplish everyones' intent?

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

From: Evenson, Gary PSC [mailto:Gary.Evenson@psc.state.wi.us]
Sent: Thursday, February 14, 2008 4:04 PM
To: Lovell, David; Kunkel, Mark; Ruesch, Kristin; Hodgson, Amber
Cc: Linden, Nick - PSC; Varda, Mike - PSC; Callisto, Eric - PSC; Brian J. Rybarik
Subject: RE: Issue 5 question: definition of bundle

That is a change from what we talked about earlier, BUT Evenson, Varda and Linden think that the third-party service could be regulated or unregulated*, but Brian Rybarik should weigh in on that.

*Or – could have no adjective in front of ‘service’ in the third party provision

==+==+==+==+==+==+==+==+==+==+==+==+==+==+==+==

Gary A. Evenson
Administrator
Telecommunications Division
PSC of Wisconsin

From: Lovell, David [mailto:David.Lovell@legis.wisconsin.gov]
Sent: Thursday, February 14, 2008 3:26 PM
To: Evenson, Gary PSC; Kunkel, Mark; Ruesch, Kristin; Hodgson, Amber
Cc: Linden, Nick PSC; Varda, Michael PSC; Callisto, Eric PSC; Brian J. Rybarik
Subject: RE: Issue 5 question: definition of bundle

but when it is a non-affiliate, you intend to include only non-regulated services (as the written document says), or can this include regulated services, too?

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

From: Evenson, Gary PSC [mailto:Gary.Evenson@psc.state.wi.us]
Sent: Thursday, February 14, 2008 3:21 PM
To: Kunkel, Mark; Ruesch, Kristin; Hodgson, Amber; Lovell, David
Cc: Linden, Nick - PSC; Varda, Mike - PSC; Callisto, Eric - PSC; Brian J. Rybarik
Subject: RE: Issue 5 question: definition of bundle

When it was an affiliate, I recall we wanted to allow either.

==+==+==+==+==+==+==+==+==+==+==+==+==+==+==+==

Gary A. Evenson
Administrator
Telecommunications Division
PSC of Wisconsin

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Thursday, February 14, 2008 3:11 PM

To: Evenson, Gary PSC; Ruesch, Kristin; Hodgson, Amber; Lovell, David
Cc: Linden, Nick PSC; Varda, Michael PSC; Callisto, Eric PSC; Brian J. Rybarik
Subject: Issue 5 question: definition of bundle

David Lovell spotted an issued regarding the definition of "bundle." As written, the services furnished by an affiliate could be either regulated services or nonregulated services. Is this the intent, or should it refer only regulated service furnished by an affiliate?

Let me know what you think.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBs0273/1

MDK:.....

Lbk

O-NOTE

Today!
3:00pm

SENATE SUBSTITUTE AMENDMENT,
TO 2007 SENATE BILL 285

Insert

bh ✓
SA ✓
x-ref ✓

gen. cat.

1 AN ACT ...; relating to: regulation of competitive local exchange carriers,
2 alternative telecommunications utilities, and telecommunications utilities
3 that offer bundled or packaged services, and public utility accounting filing
4 requirements. ✓

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

5 SECTION 1. 196.01 (2t) of the statutes is created to read:

6 196.01 (2t) "Competitive local exchange carrier" means an alternative
7 telecommunications utility described in sub. (1d) (f) that provides
8 telecommunications service, including local exchange service as defined in s. 196.219

9 (1) (b), through any or all of the following means: ✓

10 (a) Resale of telecommunications services. ✓

1

(b) Ownership, operation, management, or control of plant or equipment that furnishes telecommunications services within the state directly or indirectly to the public.

2
3

4

SECTION 2. 196.07 (1) of the statutes is amended to read:

5

196.07 (1) Each public utility shall close its accounts annually on December 31 and promptly prepare a balance sheet of that date. On or before the following April May 1 every public utility shall file with the commission the balance sheet together with any other information the commission prescribes, verified by an officer of the public utility. The commission, for good cause shown, may extend the time for filing the balance sheet and prescribed information.

6
7
8
9

10

History: 1983 a. 53; 2001 a. 16.

11

SECTION 3. 196.194 (1) of the statutes is amended to read:

12

196.194 (1) TELECOMMUNICATIONS UTILITIES. ~~Except as provided in this subsection, nothing~~ Nothing in this chapter prohibits the commission from approving the filing of a tariff which permits a telecommunications utility to enter into an individual contract with an individual customer if substitute telecommunications services are available to customers or potential customers of the telecommunications utility and the absence of such a tariff will cause the telecommunications utility to be disadvantaged in competing for business. A tariff filed under this subsection shall include the condition that any such contract shall be compensatory as determined under s. 196.204 (5) and (6). The tariff shall include any other condition and procedure required by the commission in the public interest. Within 20 days after a contract authorized under this subsection or an amendment to such a contract has been executed, the telecommunications utility shall submit to the commission written notice of the general nature of the contract and the parties

13
14
15
16
17
18
19
20
21
22
23
24

1 to the contract. Upon request, the commission shall inform a person, or direct that
2 the person be informed, that notice has been received by the commission of execution
3 of a contract under this subsection. Within 6 months after receiving substantial
4 evidence that a contract may be noncompensatory, or upon its own motion, the
5 commission shall investigate and determine whether the contract is compensatory.
6 If the commission determines that the contract is noncompensatory, the commission
7 may make appropriate adjustments in the rates or tariffs of the telecommunications
8 utility that has entered into the contract, in addition to other remedies under this
9 chapter. The dollar amount of the adjustment may not be less than the amount by
10 which the contract was found to be noncompensatory.

History: 1985 a. 297; 1993 a. 211, 496; 1995 a. 117; 1997 a. 90.

11 **SECTION 4.** 196.203 (1) of the statutes is renumbered 196.203 (1g) and amended

12 to read:

13 ✓ 196.203 (1g) Alternative telecommunications utilities are exempt from all
14 provisions of ch. 201 and this chapter, except as provided in this section and except
15 that an alternative telecommunications utility that is a local government
16 telecommunications utility, as defined in s. 196.204 (5) (ag) 1., is subject to s. 196.204
17 (5).

History: 1985 a. 297; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2003 a. 125, 278.

18 **SECTION 5.** 196.203 (1d) of the statutes is created to read:

19 ✓ 196.203 (1d) In this section, "local government telecommunications utility"
20 has the meaning given in s. 196.204 (5) (ag) 1.

21 **SECTION 6.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and
22 amended to read:

23 ✓ 196.203 (2) (a) No person may commence providing service as an alternative
24 telecommunications utility unless the person petitions for and the commission issues

1 a determination certification that the person is an alternative telecommunications
2 utility.

3 (6) The commission shall maintain information on authorized certified
4 alternative telecommunications utilities and on applicants for alternative
5 telecommunications utility status certification and make that information available
6 to any person, upon request.

7 History: 1985 a. 297; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2003 a. 125, 278. SECTION 7. 196.203 (2) (b) and (c) of the statutes is created to read:

8 196.203 (2) (b) Except for an alternative telecommunications utility that is a
9 local government telecommunications utility, certification as an alternative
10 telecommunications utility shall be on a statewide basis and any certification issued
11 by the commission before the effective date of this paragraph [revisor inserts
12 date], to an alternative telecommunications utility that is not a local government
13 telecommunications utility is considered amended to be a statewide certification.
14 This paragraph does not alter any limitations of a certification issued before the
15 effective date of this paragraph [revisor inserts date] except for geographic scope.

16 (c) The commission may deny a petition for certification as a competitive local
17 exchange carrier if the commission finds that the petitioner does not have the
18 financial, managerial, or technical capabilities to comply with conditions that the
19 commission is authorized to impose under sub. (3) (a).

20 SECTION 8. 196.203 (3) (a) of the statutes is amended to read:

21 196.203 (3) (a) In response to a petition from any interested person, or upon
22 its own motion, the commission shall determine whether the public interest requires
23 that any provision of ch. 201 or this chapter be imposed on a person providing or
24 proposing to provide service as an alternative telecommunications utility in a

1 relevant market. In making this determination, the commission may consider
2 factors including the quality of service, customer complaints, concerns about the
3 effect on customers of local exchange telecommunications utilities and the extent to
4 which similar services are available from alternative sources. The commission may
5 impose a condition under this paragraph on the certification of a competitive local
6 exchange carrier only if the condition is consistent with 47 USC 253 (b).

History: 1985 a. 297; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2003 a. 125, 278.

Handwritten note: "INSERT 5-8" with arrows pointing to lines 8 and 9.

SECTION 9. 196.203 (3) (d) of the statutes, as affected by 2007 Wisconsin Act 42,

is repealed.

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

10 196.203 (5) The commission may establish a reasonable fee schedule and may
11 assess an alternative telecommunications utility to cover the cost of making a
12 certification or other determination under this section.

History: 1985 a. 297; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2003 a. 125, 278.

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

196.204 (8) (a) In this subsection:

1. "Bundle" means a retail offering by a telecommunications utility that
combines one or more telecommunications services provided by the
telecommunications utility with one or more services provided by an affiliate of the
telecommunications utility or an unaffiliated 3rd party.

2. "Package" means a retail offering by a telecommunications utility that
combines a telecommunications service provided by the telecommunications utility
with one or more other telecommunications or other services provided by the
telecommunications utility.

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

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

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

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

5 196.219 (1) (b) "Local exchange service" has the meaning given in s. 196.50 (1)
6 (b) 1. includes access service, basic local exchange service and business access line
7 and usage service within a local calling area.

8 History: 1993 a. 496; 1997 a. 218; 2001 a. 16; 2005 a. 25.

8 SECTION 14. 196.219 (3) (g) of the statutes is amended to read:

9 196.219 (3) (g) Provide services, products or facilities in violation of s. 196.204.
10 This paragraph does not apply to a telecommunications utility that offers services
11 in a bundle, as defined in s. 196.204 (8) (a) 1., or package, as defined in s. 196.204 (8)
12 (a) 2.

13 History: 1993 a. 496; 1997 a. 218; 2001 a. 16; 2005 a. 25.

13 SECTION 15. 196.50 (1) (b) 1. of the statutes is repealed.

14 SECTION 16. 196.50 (1) (b) 2. of the statutes, as affected by 2007 Wisconsin Act
15 42, is repealed.

16 SECTION 17. 196.50 (1) (b) 3. of the statutes is renumbered 196.50 (1) (bm).

17 SECTION 18. 196.52 (5) (b) of the statutes is renumbered 196.52 (5) (b) 2. and
18 amended to read:

19 196.52 (5) (b) 2. For a telecommunications utilities utility that does not offer
20 a bundle or package, the commission shall have supervisory jurisdiction over the
21 terms and conditions of contracts and arrangements under this section as necessary
22 to enforce ss. 196.204 and 196.219.

23 History: 1981 c. 390; 1983 a. 53, 538; 1985 a. 297; 1993 a. 496; 1995 a. 225; 1997 a. 184; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 16; 2005 a. 253.

23 SECTION 19. 196.52 (5) (b) 1. of the statutes is created to read:

24 196.52 (5) (b) 1. In this paragraph:

1 a. "Bundle" has the meaning given in s. 196.204 (8) (a) 1.

2 b. "Package" has the meaning given in s. 196.204 (8) (a) 2.

3 **SECTION 20.** 196.52 (5) (b) 3. and 4. of the statutes are created to read:

4 196.52 (5) (b) 3. Except for subd. 4., this section does not apply to a
5 telecommunications utility that offers a bundle or package, and except that such a
6 telecommunications utility shall provide to the commission, upon the commission's
7 request, a copy of any contract or arrangement with an affiliated interest that the
8 commission determines is necessary to investigate whether the telecommunication
9 utility has violated s. 196.219 (3) (g).

10 4. Any contract or arrangement between a telecommunications utility and an
11 affiliated interest shall specify the services furnished, and the properties, rights, or
12 things purchased, sold, leased, or exchanged, under the contract or arrangement,
13 and shall specify the rates, terms, and conditions for such furnishing, purchase, sale,
14 lease, or exchange. A telecommunications utility shall retain a copy of any contract
15 or arrangement with an affiliated interest for 3 years after the termination date of
16 the contract or arrangement.

17 **SECTION 21. Nonstatutory provisions.**

18 (1) Notwithstanding the treatment of sections 196.203 (2) (b) and 196.50 (1) (b)
19 1., 2., and 3. by this act, the parties to the proceeding before the Public Service
20 Commission in docket 3355-NC-104 shall comply with the settlement agreement
21 approved by the commission in that proceeding.

22 **SECTION 22. Initial applicability.**

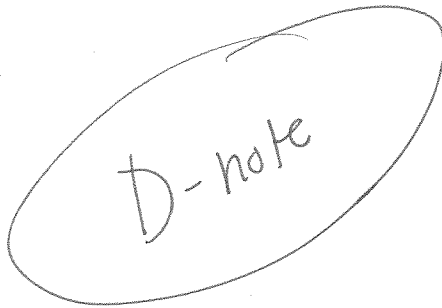
23 (1) The treatment of section 196.194 (1) of the statutes first applies to tariffs
24 filed on the effective date of this subsection.

1 (2) The treatment of section 196.203 (2) (c) and (3) (a) of the statutes first
2 applies to petitions filed on the effective date of this subsection. ✓

3 **SECTION 23. Effective date.**

4 (1) This act takes effect on the first day of the 4th month beginning after
5 publication. ✓

6 (END) ✓

A handwritten note "D-note" is circled in black ink. The circle is slightly tilted and encompasses the text "D-note" written in a casual, cursive hand.

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0273/lins
MDK:.....

ljk

1
2
3
4
5
6
7
8
9

INSERT 5-8:

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

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

History: 1985 a. 297; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2003 a. 125, 278.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0273/1dn

MDK:.....

Lbk

Date

Sen. Plale: ✓

Please note the following about this substitute amendment:

1. I moved the 2nd sentence of s. 196.203 (2) to s. 196.203 (6), and made a slight change to s. 196.203 (5). The foregoing changes were not included in the instructions, but I think they are consistent with your intent. ✓

2. I did not affect the reference to a "relevant market" in s. 196.203 (3) (a), but I wonder if it is consistent with the statewide certification created in the substitute amendment. Is that reference okay? ✓

3. The term "affiliate" is used, but not defined, in s. 196.204 (8) (a) 1. Is that okay? ✓

4. 2007 Wisconsin Act 42 makes the amendment of s. 196.50 (1) (c) not necessary, so I did not include it. ✓

5. I made substantial changes to the changes proposed to s. 196.52. Please let me know if my changes are not okay. ✓

* 6. Section 196.52 (2) (b) 3. allows the PSC to obtain a copy of a contract or arrangement from a telecommunications utility that offers a bundle or package in order to determine whether the telecommunications utility violated s. 196.219 (3) (g). However, s. 196.219 (3) (g) does not apply to such a telecommunications utility. As a result, I don't know what you are trying to achieve here. Let me know if any revisions are necessary. ✓

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0273/1dn
MDK:bk:rs

February 18, 2008

Sen. Plale:

Please note the following about this substitute amendment:

1. I moved the 2nd sentence of s. 196.203 (2) to s. 196.203 (6), and made a slight change to s. 196.203 (5). The foregoing changes were not included in the instructions, but I think they are consistent with your intent.
2. I did not affect the reference to a "relevant market" in s. 196.203 (3) (a), but I wonder if it is consistent with the statewide certification created in the substitute amendment. Is that reference okay?
3. The term "affiliate" is used, but not defined, in s. 196.204 (8) (a) 1. Is that okay?
4. 2007 Wisconsin Act 42 makes the amendment of s. 196.50 (1) (c) not necessary, so I did not include it.
5. I made substantial changes to the changes proposed to s. 196.52. Please let me know if my changes are not okay.
6. Section 196.52 (5) (b) 3. allows the PSC to obtain a copy of a contract or arrangement from a telecommunications utility that offers a bundle or package in order to determine whether the telecommunications utility violated s. 196.219 (3) (g). However, s. 196.219 (3) (g) does not apply to such a telecommunications utility. As a result, I don't know what you are trying to achieve here. Let me know if any revisions are necessary.

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

Kunkel, Mark

From: Brian J. Rybarik [brybarik@wsta.info]
Sent: Monday, February 18, 2008 4:49 PM
To: Kunkel, Mark
Subject: Language for LRB

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

196.52 (5) (b) 3. Except for subd. 4., this section does not apply to a telecommunications utility that offers a bundle or package, and except that such a telecommunications utility shall provide ~~to the commission, upon the commission's request, or upon the request of a party in a complaint case, a copy of any contract or arrangement with an affiliated interest that the commission determines is necessary to investigate whether the telecommunication utility has violated s. 196.219 (3) (g).~~ a copy of any contract or arrangement with an affiliated interest that is necessary for an investigation of a violation of s. 196.219, excepting sub. (3)(g), and has been requested by the commission or a party to a complaint proceeding.

3. Strike and insert in Section 22 as follows:

Section 22. (1) Notwithstanding the treatment of sections 196.203 (2) (b) and 196.50 (1) (b) 1., 2., and 3. by this act, the parties to the proceeding before the Public Service Commission in docket 3355-NC-104 shall comply with the settlement agreement ~~Approved~~ accepted by the commission in that proceeding.

Brian J. Rybarik
Legal Counsel and Manager of Regulatory Affairs
Wisconsin State Telecommunications Association
121 E. Wilson St., Suite 102
Madison, WI 53703
(608) 256-8866 ext. 23

SENATE SUBSTITUTE AMENDMENT,
TO 2007 SENATE BILL 285

TUES
2-19
before
NOON

Inserts

Stay
RM
has
been
RMN

SA ✓
X-ref ✓

-regen. cat.

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) and 196.219 (3) (g); and *to create*
5 196.01 (2t), 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 ~~competitive local exchange carriers~~ *certain* alternative telecommunications utilities,
8 and telecommunications utilities that offer bundled or packaged services, and
9 public utility accounting filing requirements.

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

10 SECTION 1. 196.01 (2t) of the statutes is created to read:
11 196.01 (2t) "Competitive local exchange carrier" means an alternative
12 telecommunications utility described in sub. (1d) (f) that provides

1 telecommunications service, including local exchange service as defined in s. 196.219

2 (1) (b), through any or all of the following means:

3 (a) Resale of telecommunications services.

4 (b) Ownership, operation, management, or control of a plant or equipment that
5 furnishes telecommunications services within the state directly or indirectly to the
6 public.

7 **SECTION 2.** 196.07 (1) of the statutes is amended to read:

8 196.07 (1) Each public utility shall close its accounts annually on December 31
9 and promptly prepare a balance sheet of that date. On or before the following April
10 May 1 every public utility shall file with the commission the balance sheet together
11 with any other information the commission prescribes, verified by an officer of the
12 public utility. The commission, for good cause shown, may extend the time for filing
13 the balance sheet and prescribed information.

14 **SECTION 3.** 196.194 (1) of the statutes is amended to read:

15 196.194 (1) TELECOMMUNICATIONS UTILITIES. ~~Except as provided in this~~
16 ~~subsection, nothing~~ Nothing in this chapter prohibits the commission from
17 approving the filing of a tariff which permits a telecommunications utility to enter
18 into an individual contract with an individual customer if ~~substitute~~
19 ~~telecommunications services are available to customers or potential customers of the~~
20 ~~telecommunications utility and the absence of such a tariff will cause the~~
21 ~~telecommunications utility to be disadvantaged in competing for business. A tariff~~
22 ~~filed under this subsection shall include the condition that any such contract shall~~
23 ~~be compensatory as determined under s. 196.204 (5) and (6). The tariff shall include~~
24 ~~any other condition and procedure required by the commission in the public interest.~~
25 ~~Within 20 days after a contract authorized under this subsection or an amendment~~

1 ~~to such a contract has been executed, the telecommunications utility shall submit to~~
2 ~~the commission written notice of the general nature of the contract and the parties~~
3 ~~to the contract. Upon request, the commission shall inform a person, or direct that~~
4 ~~the person be informed, that notice has been received by the commission of execution~~
5 ~~of a contract under this subsection. Within 6 months after receiving substantial~~
6 ~~evidence that a contract may be noncompensatory, or upon its own motion, the~~
7 ~~commission shall investigate and determine whether the contract is compensatory.~~
8 ~~If the commission determines that the contract is noncompensatory, the commission~~
9 ~~may make appropriate adjustments in the rates or tariffs of the telecommunications~~
10 ~~utility that has entered into the contract, in addition to other remedies under this~~
11 ~~chapter. The dollar amount of the adjustment may not be less than the amount by~~
12 ~~which the contract was found to be noncompensatory.~~

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

15 196.203 **(1g)** Alternative telecommunications utilities are exempt from all
16 provisions of ch. 201 and this chapter, except as provided in this section and except
17 that an alternative telecommunications utility that is a local government
18 telecommunications utility, as defined in s. 196.204 (5) (ag) 1., is subject to s. 196.204
19 (5).

20 **SECTION 5.** 196.203 (1d) of the statutes is created to read:

21 196.203 **(1d)** In this section, “local government telecommunications utility”
22 has the meaning given in s. 196.204 (5) (ag) 1.

23 **SECTION 6.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a) and
24 amended to read:

1 196.203 (2) (a) No person may commence providing service as an alternative
2 telecommunications utility unless the person petitions for and the commission issues
3 a determination certification that the person is an alternative telecommunications
4 utility.

5 (6) The commission shall maintain information on authorized certified
6 alternative telecommunications utilities and on applicants for alternative
7 telecommunications utility status certification and make that information available
8 to any person, upon request.

9 SECTION 7. 196.203 (2) (b) and (c) of the statutes are created to read:

10 196.203 (2) (b) Except for an alternative telecommunications utility that is a
11 local government telecommunications utility, certification as an alternative
12 telecommunications utility shall be on a statewide basis and any certification issued
13 by the commission before the effective date of this paragraph [revisor inserts
14 date], to an alternative telecommunications utility that is not a local government
15 telecommunications utility is considered amended to be a statewide certification.

16 This paragraph does not alter any ~~limitations~~^{conditions} of a certification issued before the
17 effective date of this paragraph [revisor inserts date], except for geographic scope.

18 (c) The commission may deny a petition for certification as a ~~competitive local~~
19 ~~exchange carrier~~ if the commission finds that the petitioner does not have the
20 financial, managerial, or technical capabilities to comply with conditions that the
21 commission is authorized to impose under sub. (3) (a).

22 SECTION 8. 196.203 (3) (a) of the statutes is amended to read:

23 196.203 (3) (a) In response to a petition from any interested person, or upon
24 its own motion, the commission shall determine whether the public interest requires
25 that any provision of ch. 201 or this chapter be imposed on a person providing or

INSERT
4-19 ✓

provide its proposed
services or to

INSERT 5-6 ✓

1 proposing to provide service as an alternative telecommunications utility in a
2 relevant market. In making this determination, the commission may consider
3 factors including the quality of service, customer complaints, concerns about the
4 effect on customers of local exchange telecommunications utilities and the extent to
5 which similar services are available from alternative sources. The commission may
6 impose a condition under this paragraph on the certification of a competitive local
7 exchange carrier only if the condition is consistent with 47 USC 253 (b).

8 SECTION 9. 196.203 (3) (d) of the statutes, as affected by 2007 Wisconsin Act 42,
9 is repealed.

10 SECTION 10. 196.203 (3) (e) 1. (intro.) of the statutes, as affected by 2007
11 Wisconsin Act 42, is amended to read:

12 196.203 (3) (e) 1. (intro.) If a provider of cable service files a petition under par.
13 (a) for alternative telecommunications status to offer local exchange service, as
14 defined in s. 196.50 (1) (b) 1. 196.219 (1) (b), in a geographical area served by a
15 telecommunications utility with less than 50,000 access lines in use in this state on
16 September 1, 1994, or at any time thereafter, the commission may not deny the
17 petition as not being in the public interest and shall do any of the following:

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

19 196.203 (5) The commission may establish a reasonable fee schedule and may
20 assess an alternative telecommunications utility to cover the cost of making a
21 certification or other determination under this section.

22 SECTION 12. 196.204 (8) of the statutes is created to read:

23 196.204 (8) (a) In this subsection:

24 1. "Bundle" means a retail offering by a telecommunications utility that
25 combines one or more telecommunications services provided by the

Multiservice

INSERT 6-1

1 telecommunications utility with one or more services provided by an affiliate of the
2 telecommunications utility or an unaffiliated 3rd party.

3 2. "Package" means a multiservice retail offering by a telecommunications utility that
4 combines a telecommunications service provided by the telecommunications utility
5 with one or more other telecommunications or other services provided by the
6 telecommunications utility.

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

9 SECTION 13. 196.213 (3) of the statutes is created to read:

10 196.213 (3) This section does not apply to a rate increase for a bundle, as
11 defined in s. 196.204 (8) (a) 1., or package, as defined in s. 196.204 (8) (a) 2.

12 SECTION 14. 196.219 (1) (b) of the statutes is amended to read:

13 196.219 (1) (b) "Local exchange service" has the meaning given in s. 196.50 (1)
14 (b) 1. includes access service, basic local exchange service, and business access line
15 and usage service within a local calling area.

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

17 196.219 (3) (g) Provide services, products or facilities in violation of s. 196.204.
18 This paragraph does not apply to a telecommunications utility that offers services
19 in a bundle, as defined in s. 196.204 (8) (a) 1., or package, as defined in s. 196.204 (8)
20 (a) 2.

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

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

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

INSERT 6-15

196.50 (1) (b) 3. (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 ~~to the commission, upon the commission's~~

15 ~~request~~ a copy of any contract or arrangement with an affiliated interest that ~~the~~
16 ~~commission determines~~ is necessary ~~to investigate whether the telecommunication~~
17 ~~utility has violated~~ s. 196.219 (3) (g).

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.

Complaint proceeding

and has been requested by the commission or a party to a

for an investigation of a violation of 502.1960219/51 other than

accepted

1 (1) Notwithstanding the treatment of sections 196.203 (2) (b) and 196.50 (1) (b)
2 1., 2., and 3. by this act, the parties to the proceeding before the Public Service
3 Commission in docket 3355-NC-104 shall comply with the settlement agreement
4 ~~approved~~ by the commission in that proceeding.

5 **SECTION 23. Initial applicability.**

6 (1) The treatment of section 196.194 (1) of the statutes first applies to tariffs
7 filed on the effective date of this subsection.

8 (2) The treatment of section 196.203 (2) (c) and (3) (a) of the statutes first
9 applies to petitions filed on the effective date of this subsection.

10 **SECTION 24. Effective date.**

11 (1) This act takes effect on the first day of the 4th month beginning after
12 publication.

13 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0273/2ins

MDK:.....

66k

1
2
3
4
5
6
7
8
9
10
11
12
13
14

INSERT 4-19:

N/A an alternative telecommunications utility described in s. 196.01 (1d) (f) ✓

INSERT 5-6:

N/A an alternative telecommunications utility described in s. 196.01 (1d) (f) ✓

INSERT 6-1:

N/A affiliated interest, as defined in s. 196.52 (1) (a), ✓

INSERT 6-15:

X ~~SECTION 1.~~ 196.219 (2) (a) of the statutes is amended to read: ✓

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

History: 1993 a. 496; 1997 a. 218; 2001 a. 16; 2005 a. 25.

end of insert