



**ASSEMBLY AMENDMENT 2,
TO 2009 ASSEMBLY BILL 696**

March 15, 2010 – Offered by Representative ZEPNICK.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 9: delete lines 9 to 11 and substitute “telecommunications
3 switched access service rates, and interconnected voice over Internet protocol
4 service”.

5 **2.** Page 2, line 12: delete “an appropriation”.

6 **3.** Page 7, line 1: delete lines 1 to 4.

7 **4.** Page 8, line 8: after “(j) 1.” insert “a.”.

8 **5.** Page 9, line 19: delete the material beginning with that line and ending with
9 page 14, line 9, and substitute:

10 **“196.191 Telecommunications utility and alternative**
11 **telecommunications utility tariffs. (1)** In this section, “telecommunications
12 utility” includes an alternative telecommunications utility.

1 **(2)** Notwithstanding anything in this chapter to the contrary, any
2 telecommunications utility may do any of the following:

3 (a) Retain on file with the commission tariffs already on file with the
4 commission as of the effective date of this paragraph [LRB inserts date], showing
5 the rates, tolls, and charges which the telecommunications utility has established as
6 of the effective date of this paragraph [LRB inserts date], for some or all of the
7 services performed by the telecommunications utility within the state or for any
8 service in connection therewith or performed by any telecommunications utility
9 controlled or operated by the telecommunications utility.

10 (b) Change or withdraw a tariff on file with the commission.

11 (c) File with the commission new tariffs showing the rates, tolls, and charges
12 which the telecommunications utility has established, as provided in the tariff
13 filings, for some or all of the services performed by the telecommunications utility
14 within the state or for any service in connection therewith or performed by any
15 telecommunications utility controlled or operated by the telecommunications utility.
16 If a telecommunications utility files a new tariff under this paragraph, all of the
17 following apply:

18 1. The new tariff shall become effective on the date specified in the tariff, unless
19 the commission suspends the operation of the new tariff upon serving a written
20 notice of the suspension on the telecommunications utility within 10 days after the
21 date of filing. The notice shall include a statement of the reason under subd. 2. upon
22 which the commission believes the tariff may be modified.

23 2. The commission may modify the new tariff after an opportunity for a hearing,
24 only to the extent permitted by ss. 196.203 and 196.50 (2) (i) and (j).

1 3. If the commission does not conduct a hearing under subd. 2., the commission
2 shall issue its final order within 60 days after issuing the notice of suspension under
3 subd. 1. If the commission conducts a hearing, the commission shall issue its final
4 order within 120 days after issuing the notice of suspension under subd. 1. If a final
5 order is not issued within the time limits specified in this subdivision, the new tariff
6 becomes effective as filed.

7 **(3)** Nothing in this section shall give the commission jurisdiction over the rates
8 or terms and conditions of any service that is not subject to a tariff under sub. (2).

9 **(4)** Every telecommunications utility that files a tariff with the commission
10 under this section shall include all terms and conditions that apply to the services
11 specified in the tariff and the rates charged or to be charged.

12 **(5)** A telecommunications utility may withdraw a tariff for any service by
13 providing notice to the commission.

14 **(6)** (a) Except as provided in par. (b), a proposed change in a tariff shall be
15 effective at the time specified in the tariff as filed with the commission.

16 (b) No change in a tariff which constitutes an increase in switched access
17 service rates may be made unless the change is consistent with the public interest
18 factors set forth in s. 196.03 (6) and the commission by order, after investigation and
19 opportunity for a hearing, approves the change.

20 **(7)** Nothing in this chapter prohibits a tariff for a service which permits a
21 telecommunications utility to enter into an individual contract with an individual
22 customer for that tariffed service that includes rates, terms, and conditions that are
23 different from those in the tariff.

24 **(8)** Except as provided in sub. (7), no telecommunications utility may charge,
25 demand, collect, or receive more or less compensation for any service for which a

1 tariff is filed under this section than is specified in the tariff, as may at the time be
2 in force, or demand, collect, or receive any rate, toll, or charge for such service not
3 specified in the tariff.

4 (9) A copy of the tariffs filed under this section shall be made available to
5 consumers in a form and place readily accessible to the public.”.

6 6. Page 14, line 10: delete the material beginning with that line and ending
7 with page 15, line 8, and substitute:

8 “SECTION 13m. 196.194 (1) of the statutes is repealed.

9 SECTION 13q. 196.194 (2) (title) of the statutes is repealed.

10 SECTION 13s. 196.194 (2) of the statutes is renumbered 196.194 and amended
11 to read:

12 **196.194 Public Gas utility individual contracts.** Nothing in ss. 196.03,
13 196.19, 196.20, 196.21, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the
14 commission from approving the filing of a tariff which permits a gas utility to enter
15 into an individual contract with an individual customer if the term of the contract
16 is no more than 5 years, or a longer period approved by the commission, and if the
17 commission determines that substitute gas services are available to customers or
18 potential customers of the gas utility and the absence of such a tariff will cause the
19 gas utility to be disadvantaged in competing for business. A tariff filed under this
20 ~~subsection~~ section shall include the condition that any such contract shall be
21 compensatory. The tariff shall include any other condition and procedure required
22 by the commission in the public interest. Within 20 days after a contract authorized
23 under this ~~subsection~~ section or an amendment to such a contract has been executed,
24 the gas utility shall submit the contract to the commission. The commission shall

1 give notice to any person, upon request, that a contract authorized under this
2 subsection section has been received by the commission. The notice shall identify the
3 gas utility that has entered into the contract. Within 6 months after receiving
4 substantial evidence that a contract may be noncompensatory, or upon its own
5 motion, the commission shall investigate and determine whether the contract is
6 compensatory. If the commission determines that the contract is noncompensatory,
7 the commission may make appropriate adjustments in the rates or tariffs of the gas
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.”.

11 **7.** Page 15, line 18: delete “tariffing requirements under s. 196.194 (1) or”.

12 **8.** Page 18, line 5: delete “ss. 196.193, and 196.195” and substitute “~~ss.~~ s.
13 196.193, 196.195”.

14 **9.** Page 18, line 6: delete “(12) and 196.196” and substitute “(12) and 196.196”.

15 **10.** Page 18, line 20: delete “subject to s.” and substitute “subject to s. ss.”.

16 **11.** Page 18, line 20: after “196.025 (6)” insert “and 196.206 and may elect to
17 subject itself to s. 196.191, and except that only with respect to its switched access
18 services an alternative telecommunications utility is subject to ss. 196.03 and
19 196.37”.

20 **12.** Page 19, line 9: after “(j) 1” insert “. a”.

21 **13.** Page 19, line 21: delete lines 21 and 22.

22 **14.** Page 19, line 22: after that line insert:

23 “**SECTION 36m.** 196.203 (2) (c) of the statutes is created to read:

1 196.203 **(2)** (c) An alternative telecommunications utility may provide notice
2 to the commission to maintain certification as an alternative telecommunications
3 utility but to recertify the alternative telecommunications utility and impose on the
4 alternative telecommunications utility only those provisions of this chapter specified
5 in sub. (4m) that are imposed on all alternative telecommunications utilities under
6 sub. (3). No later than 30 days after receiving notice under this paragraph, the
7 commission shall issue an order granting recertification and imposing on the
8 alternative telecommunications utility only those provisions of this chapter specified
9 in sub. (4m) that are imposed on all alternative telecommunications utilities under
10 sub. (3). The granting of such recertification shall operate to terminate the
11 alternative telecommunications utility’s prior certification and all requirements
12 related to the prior certification, including all such requirements imposed by
13 certification or imposed by order or otherwise by the commission.”.

14 **15.** Page 19, line 23: on lines 23 and 24, delete “(c)” and substitute “(d)”.

15 **16.** Page 20, line 8: delete “any provision of ch. 201 or a provision of this
16 chapter” and substitute “any a provision of ch. 201 or this chapter”.

17 **17.** Page 20, line 16: delete lines 16 and 17 and substitute “same provision at
18 the same level of regulation on all other alternative telecommunications utilities.”.

19 **18.** Page 21, line 3: before “(3) (a)” insert “(2r)”.

20 **19.** Page 21, line 3: delete “(h)”.

21 **20.** Page 21, line 5: delete “or 196.858” and substitute “196.858, or 196.859”.

22 **21.** Page 22, line 18: delete lines 18 to 24 and substitute:

23 “**SECTION 55m.** 196.205 of the statutes is repealed.”.

1 **22.** Page 23, line 3: after “in this section” insert “, and except as provided in
2 ss. 196.025 (6), 196.218 (3), and 196.859, and except as required for the commission
3 to enforce ss. 196.025 (6), 196.218 (3), and 196.859”.

4 **23.** Page 23, line 4: delete “telecommunications provider” and substitute
5 “communications provider, as defined in s. 196.025 (6) (a) 1.”.

6 **24.** Page 23, line 14: delete lines 14 and 15 and substitute “interconnected
7 voice over Internet protocol services shall be subject to intrastate access charges to
8 the same extent that telecommunications services are subject to such charges.”.

9 **25.** Page 23, line 16: delete the material beginning with that line and ending
10 with page 24, line 14.

11 **26.** Page 24, line 21: delete lines 21 to 23.

12 **27.** Page 25, line 8: delete lines 8 and 9 and substitute:
13 “196.218 (3) (f) ~~Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)~~
14 ~~and (6), 196.213 and 196.215, a~~ A telecommunications utility that provides local”.

15 **28.** Page 26, line 1: delete lines 1 to 3.

16 **29.** Page 26, line 8: delete “and price” and substitute “~~and price~~”.

17 **30.** Page 26, line 9: delete “regulation and” and substitute “~~regulation and~~”.

18 **31.** Page 26, line 13: delete lines 13 to 21.

19 **32.** Page 27, line 1: before that line insert:

20 “**SECTION 71e.** 196.219 (2) (a) of the statutes is amended to read:

21 196.219 (2) (a) Notwithstanding any exemptions identified in this chapter
22 except s. ~~ss. 196.202, 196.203, 196.206, and 196.50~~, a telecommunications utility or
23 provider shall provide protection to its consumers under this section unless

1 exempted in whole or in part by rule or order of the commission under this section.
2 The commission shall promulgate rules that identify the conditions under which
3 provisions of this section may be suspended.

4 **SECTION 71m.** 196.219 (2r) of the statutes is created to read:

5 196.219 (2r) SWITCHED ACCESS SERVICE RATES. Any reduction in switched access
6 service rates ordered by the commission prior to the effective date of this subsection
7 [LRB inserts date], including any reduction ordered pursuant to s. 196.195, shall
8 remain effective unless modified by the commission in a subsequent order.

9 **SECTION 71s.** 196.219 (3) (h) of the statutes is repealed.”.

10 **33.** Page 27, line 16: delete lines 16 and 17 and substitute “rates, tolls or
11 charges without the approval of the commission, ~~except as provided in s. 196.205 or~~
12 ~~196.215 (2).~~”.

13 **34.** Page 28, line 1: after that line insert:

14 “**SECTION 80m.** 196.50 (title) of the statutes is amended to read:

15 **196.50** (title) **Competing public utilities; indeterminate permits,**
16 **telecommunications; telecommunications utility certification.**”.

17 **35.** Page 28, line 6: after “(j) 1.” insert “a.”.

18 **36.** Page 28, line 7: after that line insert:

19 “**SECTION 83m.** 196.50 (2) (b) of the statutes is amended to read:

20 196.50 (2) (b) A certificate, franchise, license or permit, indeterminate or
21 otherwise, in effect on September 1, 1994, for a telecommunications utility shall
22 remain in effect and shall have the effect of a certificate of authority. A
23 telecommunications utility is not required to apply for a new certificate of authority
24 to continue offering or providing service to the extent of the prior authorization. Each

1 telecommunications utility, including telecommunications cooperatives and
2 unincorporated telecommunications cooperative associations, shall have on file with
3 the commission under ~~s. 196.19~~ a tariff that sets forth the rates, terms and conditions
4 for all services provided and a map that defines the geographical limits of the service
5 territory that the telecommunications utility is obliged to serve.”.

6 **37.** Page 28, line 21: after “196.02 (2),” insert “196.03,”.

7 **38.** Page 28, line 23: delete that line and substitute “196.78, and 196.79,
8 except that with respect only to its switched access services, a telecommunications
9 utility certified under this subsection with less than 50,000 access lines in this state
10 is not exempt from s. 196.03 and, with respect only to its switched access services,
11 a telecommunications utility certified under this subsection with more than 50,000
12 and less than 150,000 access lines in this state is not exempt from ss. 196.03 and
13 196.37. The intrastate access service rates of a telecommunications utility with
14 150,000 or more access lines in this state may not exceed the telecommunications
15 utility’s interstate access service rates for similar access services, except that such
16 a telecommunications utility shall not assess an intrastate carrier common line
17 charge or a substitute charge. Except to enforce this paragraph, the commission may
18 not review or set the access rates for a telecommunications utility with 150,000 or
19 more access lines.”.

20 **39.** Page 28, line 24: delete the material beginning with that line and ending
21 with page 29, line 2.

22 **40.** Page 29, line 4: delete “(j)” and substitute “(j) 1.”.

23 **41.** Page 29, line 6: delete “1.” and substitute “a.”.

24 **42.** Page 29, line 9: delete “issuing” and substitute “granting”.

1 **43.** Page 29, line 10: delete “196.203 and terminating” and substitute
2 “196.203. The granting of such certification shall operate to terminate”.

3 **44.** Page 29, line 14: delete lines 14 to 19 and substitute:

4 “b. Provide notice to the commission to recertify the telecommunications utility
5 under this subsection and impose on the telecommunications utility only those
6 provisions of this chapter specified in s. 196.203 (4m) that are imposed on all
7 alternative telecommunications utilities under s. 196.203 (3). No later than 30 days
8 after receiving notice under this subd. 1. b., the commission shall issue an order
9 granting recertification under this subsection and imposing on the
10 telecommunications utility only those provisions of this chapter specified in s.
11 196.203 (4m) that are imposed on all alternative telecommunications utilities under
12 s. 196.203 (3). The telecommunications utility shall be considered to be an
13 alternative telecommunications utility for purposes of s. 196.203 (1g), except that,
14 notwithstanding s. 196.203 (1g), if the telecommunications utility has less than
15 50,000 access lines in this state, the telecommunications utility is not subject to s.
16 196.37. The granting of the recertification shall operate to terminate the
17 telecommunications utility’s prior certification and all regulatory requirements
18 related to the prior certification, including all such requirements imposed by the
19 certification, and all requirements imposed by the commission, whether by statute
20 or commission rule or order, on the telecommunications utility are terminated on the
21 effective date of the order.

22 2. Issuance of a commission order under subd. 1. shall operate as a limited
23 waiver of the telecommunications utility’s right to an exemption under 47 USC 251
24 (f) (1), which shall apply only to all of the following:

- 1 a. The requirements of 47 USC 251 (c) (1) and (2).
- 2 b. The requirements of 47 USC 251 (c) (5), but only with respect to the
3 requirements of 47 CFR 51.325 (a) (1) and (2).
- 4 3. Issuance of a commission order under subd. 1. shall operate as a limited
5 waiver of the telecommunications utility’s right to petition the commission for
6 suspension or modification under 47 USC 251 (f) (2), which shall apply only to all of
7 the following:
- 8 a. The requirements of 47 USC 251 (b) and (c) (1) and (2).
- 9 b. The requirements of 47 USC 251 (c) (5), but only with respect to the
10 requirements of 47 CFR 51.325 (a) (1) and (2).”.
- 11 **45.** Page 32, line 11: delete “is amended” and substitute “is renumbered
12 196.975 (1r) and amended”.
- 13 **46.** Page 32, line 12: delete “(1)” and substitute “(1r)”.
- 14 **47.** Page 32, line 12: delete “, as defined in s. 196.213” and substitute “, as
15 defined in s. 196.213”.
- 16 **48.** Page 32, line 13: delete “196.215 (1) (a) 1.” and substitute “(1) (a) 1.”.
- 17 **49.** Page 32, line 22: delete the material beginning with that line and ending
18 with page 33, line 4, and substitute:
- 19 “**SECTION 102e.** 196.975 (1g) of the statutes is created to read:
20 196.975 (1g) In this section, “consumer” means a person billed for one or more
21 local telecommunications service access lines not to exceed one person per access
22 line. A person billed for more than one access line may not be considered a consumer
23 for each access line for which he or she is billed.
- 24 **SECTION 102m.** 196.975 (2) of the statutes is amended to read:

1 196.975 **(2)** After receiving a petition under sub. ~~(1)~~ (1r), the commission shall
2 schedule a public hearing, to be held in the local exchange area of the petitioners,
3 serving to receive testimony on the contents of the petition and any other matters
4 deemed relevant by the commission. The commission shall publish a class 1 notice
5 under ch. 985 in a newspaper serving the local exchange area at least 20 days prior
6 to the hearing.

7 **SECTION 102s.** 201.15 of the statutes is repealed.”.

8 **50.** Page 33, line 6: delete that line.

9 **51.** Page 33, line 7: delete that line and substitute:

10 “(1m) In this section:”.

11 **52.** Page 33, line 8: delete “1.” and substitute “(a)”.

12 **53.** Page 33, line 9: delete “2.” and substitute “(b)”.

13 **54.** Page 33, line 11: after that line insert:

14 “(c) “Telecommunications utility” has the meaning given in section 196.01 (10)
15 of the statutes.”.

16 **55.** Page 33, line 12: delete “(b) On the effective date of this paragraph” and
17 substitute “(2) Except as provided in section 196.219 (2r) of the statutes, as created
18 by this act, on the effective date of this subsection”.

19 **56.** Page 33, line 15: after that line insert:

20 “(3) Except as provided in section 196.219 (2r) of the statutes, as created by this
21 act, on the effective date of this subsection, any requirement imposed on a
22 telecommunications utility under section 196.203, 2007 stats., or section 196.50,

1 2007 stats., whether by statute or commission rule or order, that is inconsistent with
2 sections 196.203 or 196.50 (2) of the statutes, as affected by this act, is terminated.”.

3 (END)